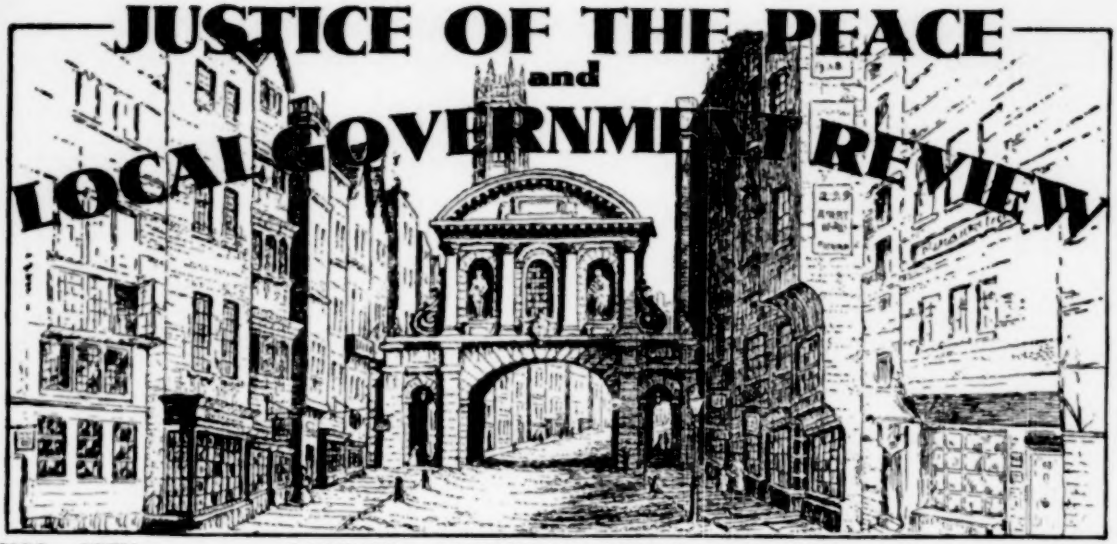

VOL. CXIV. LONDON: SATURDAY, JANUARY 21, 1950. No. 3

CONTENTS

	PAGE
NOTES OF THE WEEK	25
ARTICLES:	
The Adoption of Children Act, 1949	27
Police Supplemental Pensions	28
New Controls on Borrowing	29
A Calendar for the General Election, 1950	31
NEW COMMISSIONS	34
PERSONALIA	34
LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS	35
REVIEWS	36
MISCELLANEOUS INFORMATION	37
PRACTICAL POINTS	38

REPORTS

Chancery Division

Belcher and Others v. *Reading Corporation*—Housing—House of local authority—Rent—Increase—"Reasonable charges." 25

Court of Appeal

Marriage v. *East Norfolk Rivers Catchment Board*—Land drainage—Catchment board—Cleansing watercourse—Damage to plaintiff's bridge—Dredgings deposited on bank—Diversion of flood waters—Action for nuisance, alternatively, negligence, by plaintiff—Competence—Land Drainage Act, 1930 (c. 44), s. 34 (1), (3), s. 38 (1) 38

LEGACIES
FOR ENDOWMENT

THOSE making or revising their Wills may like to consider benefiting some selected aspect of Church Army Social or Evangelistic work by the endowment of a particular activity—thus ensuring effective continuance down the years.

Gifts—by legacy or otherwise—will be valued for investment which would produce an income in support of a specific object, of which the following are suggestions:—

1. **Training of future Church Army Officers and Sisters.**
2. **Support of Church Army Officers and Sisters in poorest parishes.**
3. **Distressed Gentlewomen's Work.**
4. **Clergy Rest Houses.**

Preliminary enquiries will be gladly answered by the

Financial Organising Secretary

THE CHURCH ARMY

55 Bryanston Street, London, W.1

A Recommendation to Mercy

In recommending a bequest or donation to the RSPCA you may confidently assure your client that every penny given will be put to work in a noble cause. Please write for the free booklet "Kindness or Cruelty" to the Secretary, RSPCA, 105 Jermyn Street, London, S.W.1.

REMEMBER THE

RSPCA

MISS AGNES WESTON'S

ROYAL SAILORS RESTS

PORTSMOUTH (1881) DEVONPORT (1878) GOSPORT (1942)

Trustee in Charge:
Mrs. Bernard Currey

All buildings were destroyed by enemy action, after which the Rests carried on in temporary premises. At Devonport permanent quarters in a building purchased and converted at a cost of £50,000 have just been taken up whilst at Portsmouth plans are well advanced to build a new Rest when permission can be obtained.

Funds are urgently needed to meet heavy reconstruction commitments and to enable the Trustees to continue and develop Miss Weston's work for the Spiritual, Moral and Physical Welfare of the ROYAL NAVY and other Services.

Gifts may be earmarked for either General or Reconstructional purposes.

Legacies are a most welcome help

Not subject to Nationalisation.

Contributions will be gratefully acknowledged. They should be sent to the Treasurer, Royal Sailors Rests, Buckingham Street, Portsmouth.

Cheques, etc., should be crossed National Provincial Bank Ltd., Portsmouth.

Official Advertisements, Tenders, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Miscellaneous Advertisements 24 words 6s. (each additional line 1s. 6d.) Box Number 1s. extra. *Latest time for receipt—9 a.m. Wednesday.*

Some of the vacancies in these columns relates to men and women coming within the provisions of the Control of Engagement Order, 1947, S.I. & O., No. 1921, or the vacancy is for employment excepted from the provisions of the Order.

BOROUGH OF MAIDENHEAD

Assistant Solicitor

APPLICATIONS are invited for the post of Assistant Solicitor, at a salary within Grade Va of the A.P.T. Division of the National Scale of Salaries, namely £550 to £610 per annum.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937, and termination by one month's notice.

Relationship to any member of Officer of the Council must be disclosed, and canvassing directly or indirectly will be a disqualification.

Applications, stating age, qualifications, experience, details of previous and present appointments with salaries, and accompanied by copies of three recent testimonials, should be delivered to me not later than January 30, 1950.

Housing accommodation may be available.

STANLEY PLATT,
Town Clerk.

Guild Hall,
Maidenhead.

COUNTY BOROUGH OF WEST BROMWICH

Common Law and Conveyancing Clerk

APPLICATIONS are invited for the post of Common Law and Conveyancing Clerk in the Legal Section of the Town Clerk's Department. Salary in accordance with A.P.T. Grade III (£450–£495).

Applicants should give details of age, experience and the names of two referees, and should be received not later than January 30, 1950.

The post is superannuable, subject to the National Conditions of Service and to one month's notice on either side.

J. M. DAY,
Town Clerk.

Town Hall,
West Bromwich.
January 9, 1950.

CITY OF COVENTRY

Appointment of Full-time Male Probation Officer for the City of Coventry

APPLICATIONS are invited for the above appointment. The appointment will be subject to the Probation Rules. The successful candidate will be required to pass a medical examination.

Applications stating age, qualifications and experience, together with copies of not more than two recent testimonials, must reach the undersigned within 14 days of the publication of this advertisement.

A. N. MURDOCH,
Secretary to the Probation Committee.

St. Mary's Hall,
Coventry.

COUNTY OF CUMBERLAND

Appointment of Temporary Junior Assistant Solicitor

APPLICATIONS are invited from qualified Solicitors for the above appointment in the Office of the Clerk of the Peace and of the County Council at a salary within A.P.T. Grade Va. of the National Salary Scales (£550 to £610 per annum). Applicants need not necessarily have Local Government experience.

The appointment will be subject to the Scheme of Conditions of Service.

Applications, endorsed "Temporary Junior Assistant Solicitor" giving age, date of admission, particulars of experience and date on which applicant would be able to take up the appointment, together with copies of two recent testimonials and the name of a personal referee, must reach the undersigned not later than January 28, 1950.

Canvassing, either directly or indirectly, will be a disqualification.

G. N. C. SWIFT,
Clerk of the Council.

The Courts,
Carlisle.
January 10, 1950.

NATIONAL ASSOCIATION OF LOCAL GOVERNMENT OFFICERS

Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor on the permanent staff of the Legal Department. The salary is £675 rising by annual increments of £25 to £750 a year and the successful candidate will commence at a point in that grade appropriate to his qualifications and experience. The successful candidate will be included in the Association's contributory superannuation scheme if he passes a medical examination. Experience of Local Government law and administration is desirable but not essential.

Applications, giving the names of two persons to whom reference may be made, must reach me by February 2, 1950.

J. H. WARREN,
General Secretary.

1, York Gate,
Regents Park, N.W.1.

WEST RIDING OF YORKSHIRE COMBINED AREA PROBATION COMMITTEE

Appointment of a Male Probation Officer
Appointment of a Female Probation Officer

APPLICATIONS are invited for the above whole-time appointments.

The Officers would be assigned to the County Borough of Halifax and the Petty Sessional Divisions of Todmorden and West Morley.

Applicants must not be less than 23 nor more than 40 years of age except in the cases of whole-time serving officers and persons who have satisfactorily completed a course of training approved by the Secretary of State.

The appointment will be subject to the Probation Rules, 1949, and the Local Government Superannuation Act, 1937, as amended by the West Riding County Council (General Powers) Act, 1948, and the salary will be in accordance with the scale prescribed by the Rules.

The successful candidate will be required to pass a medical examination.

Application should be made in writing in a sealed envelope marked "Appointment of Probation Officer" to be received by the undersigned not later than February 4, 1950.

BERNARD KENYON,
Clerk to the Combined Area Probation Committee.

Office of the Clerk of the Peace,
County Hall,
Wakefield.

CALENDAR

By R. N. HUTCHINS, LL.B.

FOR THE GENERAL ELECTION

IS IMMEDIATELY AVAILABLE IN CONVENIENT FORM

The Calendar is reproduced at p. 31 *post* of this issue. Additional copies, suitable for ready reference, have been reprinted on stiff white card, which are obtainable from the Publishers :

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NOTES of the WEEK

Judges Instructing Justices

Judges of the superior courts often give valued service as chairmen of quarter sessions, and some have found time to sit occasionally at petty sessions. The late Lord Atkin took part in the work of local petty sessions where he had his Welsh home, and it would be easy to give instances of present day judges regularly attending quarter sessions. The presence of these judges, and, indeed, of county court judges and other distinguished lawyers, adds to the dignity and efficiency of the courts.

It is welcome news that a number of High Court judges, at the instance of the Council of the Magistrates' Association, have agreed to address meetings while on circuit for the Spring Assizes.

Some justices are accustomed to attend assizes, partly as a mark of courtesy to the judge, partly as a means of gaining knowledge. Occasionally we read of a judge addressing such justices and giving them some advice on the performance of their duties. No doubt the meetings arranged by the Magistrates' Association as part of the training of justices called for by the Justices of the Peace Act, 1949, will be more formal, and they will certainly be instructive.

The projected meetings recall the days when magistrates at quarter sessions would reserve judgment in a difficult case in order that they might wait upon the judges of assize and ask for guidance, subsequently giving judgment at quarter sessions in accordance with the judicial opinion. In 1875, in *R.* v. *Chantrell*, L.R. 10 Q.B. 587, Field, J., referred to this ancient practice which originated from the words of the commission, which included: "Provided always that if a case of difficulty upon the determination of any of the premises, before you or any two or more of you, shall happen to arise, then let judgment in no wise be given thereupon before you or any two or more of you, unless in the presence of one of our justices of either bench or of one of our justices appointed to hold the assizes in the aforesaid county." A practice grew up later of stating the point of difficulty in writing instead of the justices attending in person before the judge, and in still later times the statement of a case by quarter sessions for the opinion of the King's Bench Division was regularized by statute. Today it applies mostly to quarter sessions as a court of appeal from the decisions of courts of summary jurisdiction.

The meetings arranged by the Magistrates' Association, as part of the training of justices, and particularly those new to the work, will, of course, be held for the purpose of general instruction and not for the purpose of obtaining a ruling on a pending case as under the ancient practice.

Renewal of Solicitors' Practising Certificates

By the Solicitors Act, 1932, s. 46, "any person, not having in force a practising certificate who wilfully pretends to be, or takes or uses any name, title, addition or description implying that he is, qualified or recognized by law as qualified to act as a solicitor, shall be liable, etc."

A metropolitan magistrate recently had to decide whether the adverb "wilfully" in the above section qualifies only the verb "pretends" or also the alternative and subsequent verbs "takes or uses."

The circumstances were as follows:—

A solicitor of many years standing and of unimpeachable character omitted through oversight to renew his practising certificate and was summoned for "wilfully using the title," etc. It was conceded by the prosecution that this was due to the neglect of his clerk. The defence admitted the use of the title. Thus the issue was whether the ingredient of "wilfulness" was a necessary part of the offence: if so the magistrate was disposed to acquit, if not, to convict.

The main argument advanced by the defence was that "wilfully" could not have been intended to qualify "pretends" alone, since pretence is necessarily an intentional or wilful activity and for Parliament to have introduced "wilfully" to qualify "pretends" alone would be repugnant to the best principles of construction; therefore Parliament must have meant "wilfully" to qualify "takes or uses" as well.

The magistrate agreed with this argument in so far as it postulated that "pretending" is a conscious and intentional form of activity, but no farther. He held that the grammatical structure of the sentence, notably the comma after "to be" indicated Parliament's meaning that wilfulness was to attach to "pretends" only. The apparent redundancy of "wilfully pretends" he ascribed to an over anxiety on the part of the draftsman to emphasize the element of *mens rea* in pretence, or alternatively to mere legalistic verbiage. The magistrate admitted, however, that the wording was not as clear as was desirable. He added that he felt himself fortified in this interpretation by the fact that no other provision to protect the public against mere negligence in this respect by solicitors had been brought to his notice.

The defendant was convicted of simple use of the title with no guilty intent, and fined £4 on each of four summonses and ordered to pay £12 12*s.* costs.

The decision is, of course, not binding, but the matter is clearly of importance to solicitors who must often find it difficult

to decide which responsibilities may properly be delegated to a managing clerk, however efficient.

The renewal of a practising certificate, it appears, warrants personal attention.

Summary Trial of Indictable Offence

Ever since the provisions of the Criminal Justice Act, 1948, amending s. 11 of the Summary Jurisdiction Act, 1879, and s. 24 of the Criminal Justice Act, 1925, came into force, so that courts of summary jurisdiction were no longer required to take into consideration the character and antecedents of the defendant before deciding whether to give him the option of summary trial for an indictable offence, there has been discussion about the attitude which police officers prosecuting should adopt. There was a difference of opinion among police officers, and to some extent, among magistrates and clerks, as to the right of the police to ask for a committal for trial if their only reason for doing so was the character or antecedents of the defendant.

It was felt in some quarters that the police were entitled to ask for such committal, without stating their reason. If it was suggested that this could not be necessary, since the justices could commit for sentence, in a proper case, under s. 29, it was sometimes said that the police could not always count upon this, and would like to make sure at the outset that the case would go to quarter sessions.

This attitude is understandable, but difficult to justify. The police are entitled to make representations, but the court is certainly not bound to act upon them and may reasonably ask for reasons. If the only reason relates to character and antecedents, how can the police give a satisfactory answer without infringing the principle that the magistrates should not know about the bad character or antecedents of an untried defendant.

The view therefore gained ground that the police should not ask for a case to be sent for trial simply because of the defendant's character and antecedents, but, like the court, should take into consideration the other matters mentioned in s. 24. We believe this to be the better opinion.

The Home Office View

We are glad to find support for this opinion in a Home Office memorandum issued to chief constables, and brought to the notice of justices and clerks in circ. number 952,043/26.

The memorandum states that in the view of the Secretary of State character and antecedents should no longer be taken into consideration by the police as a reason for asking for committal for trial. If the magistrates, with the consent of the accused, try the case summarily and convict, they can commit him to quarter sessions for sentence where his character and antecedents are such as to make it appear to them that their own powers of punishment are inadequate. It is, of course, quite proper for the prosecution to mention previous convictions or outstanding charges when the magistrates have announced that they convict the defendant.

Accordingly, the only matters upon which the police should make representations in favour of a committal for trial are such matters as the gravity of the offence or the difficulty or complexity of the case. The fact that the defendant has previous convictions, or that there are outstanding charges which the prosecution desire should be taken into consideration, are not grounds for objecting to summary trial, but are matters to be communicated to the bench only after conviction.

There is a useful reminder in the memorandum that once the magistrates have convicted summarily the only grounds upon which they can commit the offender for sentence at quarter sessions are his character and antecedents, and not the gravity of the offence.

Another point arises which is not covered by the considerations already mentioned. It may be that the police intend to prefer a further charge which cannot be tried summarily, or is of so serious a nature that it ought not to be dealt with summarily. The Home Office view is that the police may properly state this as a ground for representing that none of the charges should be dealt with summarily.

Cases for the "Director"

The Home Office memorandum concludes with a recommendation as to the way in which a certain exceptional difficulty should be met. "Cases may exceptionally arise in which it may not be in the interests of justice that a particular person charged with an indictable offence should be dealt with summarily in a particular locality. Any such case, and any other case in which the adoption of the practice recommended in this circular presents difficulty, should be referred to the Director of Public Prosecutions for his advice as to the course which should be taken."

It will be remembered that one of the provisos to s. 24 of the Criminal Justice Act, 1925, reads: "(*b*) where the prosecution is being carried on by the Director of Public Prosecutions, the court shall not deal with the case summarily without the consent of the Director." Since the Director has been given this discretion to veto a summary trial, he is not bound to give reasons for his objection, and the magistrates will not be placed in any position of difficulty or embarrassment.

Police authorities will naturally comply with the Home Office memorandum. We hope that the magistrates' courts will also accept it, for there can be little doubt about the soundness of its recommendations.

Air Travel Health Control

The decision of the five countries of Western Union, Belgium, France, Luxembourg, the Netherlands and the United Kingdom, to become, on February 1, one single area in the matter of health control of air traffic and will be described administratively within the Brussels Treaty Powers as the "excepted area," will be generally welcomed. We understand that regulations are being brought into force in each country, the effect of which will be that: (1) Any aircraft which begins its flight at any place within the "excepted area" will not in normal circumstances be subjected to health control on its arrival at any other place within the "excepted area." This abolishes the aircraft declaration of health (by the commander of the aircraft) and with the personal declarations of origin and health by the passengers. (2) An aircraft bound for the "excepted area" which begins its flight outside that area, and the passengers, will be subjected to health control only at the first place of touching down within the "excepted area."

The "excepted area" may be restricted by the Ministers of Health by public notice, to exclude temporarily any of the member countries or part of them in which there may be an epidemic. The new scheme is the result of a system devised by the public health committee of the Brussels Treaty Organization whereby existing control measures have been simplified without being impaired.

Each country has furnished to the others particulars of all diseases notifiable in its territory together with a list of its main airports and the names, addresses and telephone numbers of the medical officers in charge with details of sanitary equipment at each airport.

THE ADOPTION OF CHILDREN ACT, 1949

This important statute, which received the Royal assent on December 16, 1949, came into force on January 1, and was not available to most people concerned with it until a very few days before they might have to carry out some of its provisions. Many would have preferred that it should come into force on April 1, so that they might study it carefully and at leisure, rather than hurriedly and perhaps imperfectly.

However, the Act is in force, and it is the business of the courts and of officials to make it work as well as possible, whether they like or dislike some of the changes made in the principles and practice of adoption law.

New rules for the juvenile courts, entitled the Adoption of Children (Summary Jurisdiction) Rules, 1949, S.I. 2397 (L.32), which also came into force on January 1, have replaced the rules of 1936.

It has appeared to many people that there was really no good reason why an alien child, resident in this country, should not be legally adopted according to our law, and there will be general approval of the provision in s. 1 making this possible. The effect of such adoption on nationality is dealt with in s. 8, as follows :—

" Where an adoption order is made in respect of an infant who is not a citizen of the United Kingdom and Colonies, then, if the adopter or, in the case of a joint adoption, the male adopter, is a citizen of the United Kingdom and Colonies, the infant shall be a citizen of the United Kingdom and Colonies as from the date of the order." This will not, apparently, affect the nationality of a child who is adopted by persons who are citizens of a Dominion or of a foreign country, unless legislation of such Dominion or country makes provision for a change of nationality. As to British nationality and citizenship within the British Commonwealth, it is necessary to refer to the British Nationality Act, 1948, a statute difficult to understand and likely to produce a number of problems.

In place of s. 2 (1) of the Act of 1926, there is a somewhat simpler provision in s. 2. The reference in the old section to consanguinity within the prohibited degrees is replaced by a reference to a person who is a relative. "Relative" is defined in s. 13 as follows :—

" For the purposes of this Act the expression ' relative ' in relation to an infant means a grandparent, brother, sister, uncle or aunt, whether of the full blood, of the half blood or by affinity, and includes—

(*a*) Where an adoption order has been made in respect of the infant or any other person, any person who would be a relative of the infant within the meaning of this definition if the adopted person were the child of the adopter born in lawful wedlock ;

(*b*) Where the infant is illegitimate, the father of the infant and any person who would be a relative of the infant within the meaning of this definition if the infant were the legitimate child of its mother and father." This definition is substituted for existing definitions in a number of statutes.

The general effect is to facilitate adoption by some persons who were formerly disqualified. The introduction of the word affinity marks a definite change of policy ; when the Act of 1926 was passed it was thought desirable to deal only with blood relationships in this connexion.

Another somewhat revolutionary change is to be found in s. 11 which prohibits marriage between adopter and adopted, and this even if the adopted person has been subsequently adopted by someone else. This provision does not, of course, invalidate any existing marriages.

The persons whose consent is required to an adoption order are clearly stated in s. 3, and the grounds upon which consent may be dispensed with now include the fact that consent is being unreasonably withheld. Consent may be given unconditionally, or subject to a condition as to religious persuasion without knowledge of the identity of the adopter ; but if consent is subsequently withdrawn on the sole ground that the identity of the adopter is not known, consent is deemed to be unreasonably withheld. A written consent may be acted upon, even if given before the commencement of proceedings, if the applicant is named or described in the form of consent. The written consent of the mother cannot be acted upon unless the infant was at least six weeks old when the document was executed, and the document is attested in the prescribed manner. While the proceedings are pending, the infant must not be removed from the care of the applicants without leave of the court, and from April 1 no application can be entertained unless the infant has been for the previous three months in their care and the welfare authority has been notified at least three months before the making of an order. An interim order cannot be made where these conditions are not fulfilled.

The intention of s. 4 is to do away with the difficulty of proving non-access consequent upon the ruling in *Russell* v. *Russell* [1924] A.C. 687. However, we understand the Law Reform (Miscellaneous Provisions) Act, 1949 (not yet available), does away with the prohibition against husband or wife giving evidence of non-access, and does so generally, so that s. 4 of the Adoption of Children Act becomes unnecessary.

Important amendments of s. 6 of the Adoption of Children (Regulation) Act, 1939, are made by s. 6 of this Act, and s. 7 defines " local authority " for the purposes of these Acts as a county or county borough council. It is declared that local authorities have power to make arrangements for adoption, and in this work they act through the children's committee.

A complete change in the law as to the position of adopted children and adopters in case of intestacies, wills and settlements, results from ss. 9 and 10. Courts will have to revise the statements they are accustomed to make to adopters on these matters, and any written statements will need to be replaced by fresh ones for the future. Generally, the effect is that the adopted child is to be treated as the lawful child of the adopter.

The vexed question of the effect of an adoption order upon an affiliation order is settled by s. 11 (2). The affiliation order ceases to have effect, except for the purpose of recovering arrears, but in the case of a single woman adopting her own child, the affiliation order goes on unless she marries, when it ceases. This applies to agreements as well as orders of affiliation. Similarly, a "fit person" order, or a resolution under s. 2 of the Children Act, 1948, ceases to have effect upon an adoption order being made.

There is an anomaly about the cessation of affiliation orders, or so it seems to us. If the mother of an illegitimate child, having obtained an affiliation order, marries, she can continue to enforce her order, but her marriage extinguishes it if she has previously adopted her child.

Where the precise date of the infant's birth is not proved, the court is to determine the probable date and specify it in the order. This, though often easy enough to determine, within a few days, may be difficult in the case of a child of unknown origin, possibly a foreign refugee, who is already well beyond early infancy. Power is given, also by s. 12, to amend adoption orders, and orders made before the coming into force of the new Act may be amended in certain specified details.

We have not attempted to deal with all the provisions of the Act, but only to call attention to some of those with which the

juvenile courts will be most concerned. Juvenile court justices and their clerks will find it necessary to study the new Act and the new rules for themselves. The rules make some important changes in procedure, in relation to the attendance of respondents, the duties of *guardian ad litem*, and other matters. There is also a new schedule of forms.

POLICE SUPPLEMENTAL PENSIONS

[CONTRIBUTED]

Under the Police Pensions Act, 1921, a member of a police force could claim, and be awarded, a "special pension," if he was invalided from the Force and his incapacity was due to an injury received in the execution of his duty. The pension was greater if the injury was non-accidental—for example, received when arresting a felon—than for an accidental injury such as incapacity arising from being knocked down by a motor car. If he was aggrieved, his remedy lay, first of all, in an application to the police authority for a reconsideration of the case, and then, if still aggrieved, by an appeal to the next practicable quarter sessions against the finding of the police authority.

It came as a shock to many police authorities when *Garvin v. City of London Police Authority* [1944] I All E.R. 378 established that ordinary illnesses could be classed as injuries on duty, provided that evidence was forthcoming to support the contention that the illness was caused in the execution of police duty. In appeals, diseases as varied as tuberculosis, duodenal ulcers and hardening of the arteries, have all been deemed to be injuries sustained in the execution of duty.

The Police Pensions Act, 1948, superseded the 1921 Act and the effect of the new Act and the regulations made thereunder (Police Pensions Regulations, 1949) is as follows:—The distinction between accidental and non-accidental injuries no longer exists. If a man is found to be unfit for duty, and his disability is likely to be permanent, he is to be granted an "ill health award" which will be an "ill health pension" if he has ten years' pensionable service to his credit, or if he is disabled by an injury received in the execution of his duty, otherwise it will be a "gratuity" (reg. 5). If he is permanently disabled as the result of an injury received without his own default, in the execution of his duty, then, without reservation as regards the length of service, the ill health award is to include a "supplemental pension," subject to the appropriate adjustments if he is in receipt of payments under the National Insurance (Industrial Injuries) Act, 1946, or National Insurance Act, 1946 (reg. 7). "Injury" includes any injury or disease, whether of body or mind (reg. 71). Regulation 43 (1) provides that the question of what award is appropriate shall be determined, in the first instance, by the police authority, and reg. 43 (2) requires that the questions (*a*) and (*b*) whether the person is disabled and, if so, whether the disability is likely to be permanent, must be referred to a duly qualified medical practitioner selected by the authority.

The same regulation provides that, *if* they are further considering whether to grant a supplemental pension, they shall also refer to the medical practitioner questions (*c*) and (*d*)—whether the disablement is the result of an injury received in the execution of duty, and the degree of the person's disablement. "Disablement" means inability to perform the ordinary duties of such a member of the Force, and the degree of disablement is determined by reference to the degree to which his earning capacity has been affected, as a result of the injury in respect of which the award is being made, a person only being deemed to be totally disabled if, by reason of the injury, he is incapable of earning any money in any employment or is an in-patient in hospital (reg. 78). *If* they are considering the question whether the person has contributed to his disablement by his own default, with a view to the exercise of their powers of reducing his pension under reg. 40 they *must* refer the question to their medical practitioner for decision.

So far as the police authority is concerned, the decision of its selected medical practitioner on the questions referred to him, is final. But what of the individual? Regulation 44 (1) provides that, where he has been informed of the determination of the police authority, he shall be supplied with a copy of the certificate of the selected medical practitioner, if he makes application to the police authority within fourteen days (or longer at the authority's discretion). If he is dissatisfied with the medical practitioner's decision he may, within fourteen days of receiving the certificate (*extendible* at the authority's discretion) give notice of appeal, in writing, to the police authority, against the *medical* decision. The police authority will then forward to the Secretary of State two copies thereof, and the certificate appealed against, with the name and address of the appellant. The Secretary of State will appoint a medical referee who will examine the appellant. At the examination the local authority's selected medical practitioner, and any duly qualified medical practitioner appointed for the purpose by either party, may attend. The medical referee's decision is given to both parties and is final at that stage, subject to the proviso (reg. 45 (2)) that either party may, by agreement, refer the decision back to the referee for reconsideration, on fresh evidence. He shall then reconsider his decision and, if necessary, issue a new certificate which shall be final. If the appellant is still aggrieved he may now appeal to quarter sessions under s. 5 of the Act and the court may make such order in the matter as appears to the court to be just. If the court feel that the evidence before the "medical authority" which gave the final decision, was inaccurate or inadequate, it may refer the decision to him for reconsideration in the light of such facts as the court may direct. He shall then, if necessary, issue a fresh certificate which shall be final, subject to any agreement by the parties to refer any fresh evidence to him. The "medical authority" will either be the "referee" or, if the appellant was out of time for an appeal to a medical referee, the "selected medical practitioner" (reg. 45).

As the whole question of whether or not a supplemental pension shall be paid is purely a medical one, it seems at first glance that the new procedure laid down by regs. 43, 44 and 45 should reduce appeals to quarter sessions to an absolute minimum—to the undoubted financial advantage of both police authorities and pensioners. It needs to be emphasized, therefore, that, however willing the individual may be to avail himself of the new and much simplified machinery, he is entirely dependent on the good-will and thoughtfulness of the police authority. His appeal is against the *medical* decision and if the important questions (*c*) and (*d*) of reg. 43 (2) have not been referred to the selected medical practitioner, he is debarred from availing himself of the facilities provided by regs. 44 and 45. It might be argued that there is nothing to prevent his making application to his police authority for a supplemental pension so that the authority must refer the necessary questions to its selected medical practitioner. Probably such a course could be pursued with complete propriety but nothing to that effect is *laid down* in the regulations, and some authorities might argue that it is entirely a matter for themselves whether they will "further consider whether to grant a supplemental

pension " as provided by the latter part of reg. 43 (2). They *must* consider whether the individual is permanently disabled, but it is left entirely open whether or not they will consider further the questions, so vital to the claimant, whether his disability arises from an injury on duty and, if so, the degree of disability. Thus a man might find himself awarded an ill health pension only and wish to appeal with a view to being granted a supplemental pension. He cannot appeal against the doctor's finding that he is totally disabled because he knows it to be true, and the question whether his disability was an injury received on duty has not been referred to the doctor. His only *statutory* remedy then remaining is to undertake a costly appeal to quarter sessions which might have been avoided if the question had been referred to the selected medical practitioner in the first instance. The lower limit of the supplemental pension only exceeds the ill health pension by 5/60ths of the pensionable pay between eleven and twenty-five years' service inclusive, and the difference becomes even less in the later years of a man's service. In terms of cash this only means an addition to the pension of 1s. 8*d*. per week for each pensionable pound, but it may mean much to the unfortunate individual who has suffered such a sudden and severe drop in his income.

Let us consider what so often happens at present. A, having been off sick for several weeks, or having produced a sick note for some serious complaint such as, for example, valvular disease of the heart, is required to present himself to the police surgeon for medical examination. The latter certifies that he is permanently disabled and at the next meeting of the police authority, it is reported to them, and they are told that he will be retired as from such and such a date and will be entitled to receive an ill health pension of Z pounds *per annum*. Someone moves that the payment of the pension be approved and the committee agree and proceed to the next business. It is submitted that this is just not good enough and that commonsense and equity demand that the approach to the problem should be as follows :—

1. The police authority learns that A has been off sick for X weeks suffering from Y.

2. The police authority asks itself the following questions :—When A joined he was physically A.1, why is he now suffering from Y? Has his duty in any way contributed to his disability?

3. If there is the slightest chance that the disability may have arisen in the execution of his duty then, when the authority refers (*a*) and (*b*) to its selected medical practitioner, it should, in common justice to its servant, who has had the misfortune to lose his good health, also refer the questions in (*c*) and (*d*) so that, if aggrieved, he can avail himself of the facilities for appeal provided by regs. 44 and 45. At the same time that he is instructed to present himself to the selected medical practitioner he should be told that it is proposed to consider (*c*) and (*d*) so that he can make any representation to the medical practitioner that he may wish to make.

It may be objected that, as a result of adopting this procedure, it would be found in practice that more " supplemental pensions " would be paid than hitherto. No police authority with the welfare of its servants at heart could cavil if that were so. Indeed, it should be a matter of grave concern if there are, in fact, men receiving only ill health pensions when their fidelity to the service has cost them their health, and they ought really to be in receipt of supplemental pensions. The question is one of medical fact in each case and no authority should shirk its duty by hiding behind an " if " when the regulation might perhaps more appropriately have said " shall."

" WESSEX."

NEW CONTROLS ON BORROWING

In a perfect market, so the economists tell us, the price for a commodity will tend to be the same all over the market. If one seller is prepared to accept a lower price than others orders will be diverted to him until he is sold out or raises his price to that asked by other sellers.

The money market has been often quoted as an example of a market approaching very nearly to the economist's idea of perfection. There are different rates of interest in the market, it is true. If you wish to borrow money in order to finance a project for extracting sunshine from cucumbers you are likely to be asked a pretty high rate of interest, even assuming that you have been able to perform this somewhat complicated operation at a profit (duly audited as correct) over a period of years. If, on the other hand, you wish to borrow on the security of the rates and revenues of a great municipality the lender will expect and get a rate of interest little, if at all, higher than the rate on Government securities. Obviously risk influences what may be called gross interest. So do expenses of managing an investment. But if these factors are eliminated it has been true that the net rate of interest—the price of money—is practically uniform.

This is no longer so in that corner of the market with which local authorities are concerned. There are different prices for the same kind of money and, as predicated by the economists, orders have been streaming towards the seller with the lowest price.

In considering what has happened it is instructive to go back a little. In 1944, Sir John Anderson, who was Chancellor of the Exchequer at the time, met the associations of local authorities and explained his proposals for future borrowing. He referred to the large amount of capital expenditure envisaged and the necessity for avoiding a scramble for capital finance. His proposed method of achieving the latter object was to suggest that all future borrowings by local authorities, subject to certain exceptions, should be made from the Local Loans Fund through the medium of the Public Works Loan Board. The Local Loans Fund had been sustained in the past by the issue of three *per cent*. Local Loans Stock, the price of issue of such stock varying from time to time with the market rate of interest. The Chancellor stated that this source would be augmented from other directions.

Rates of interest, the associations were told, would be governed by the credit of the Government, the latter being assessed by the market rates of Government stocks of corresponding periods.

In due course the Local Loans Act, 1945, gave statutory effect to the proposals of Sir John Anderson. Local authorities on the whole were well satisfied, although there were some misgivings about the encroachment into their freedom of borrowing. Such fears were mollified by the considerable concessions given by the Local Authorities Loans (Exemption) Regulations, 1945, which allow authorities freedom to borrow by mortgage or local bond from sources other than the Commissioners up to the amount of their greatest outstanding debt (apart from loans from the Commissioners) during the period between March 31, 1939 and August 1, 1945 (the date on which

the 1945 Act came into operation). The Act had already authorized the use of local authorities' own internal funds for capital purposes.

During the debate on the Bill concern was expressed about rates of interest in view of past experiences. Loans from the Board can only be repaid in advance of the agreed dates by payment of a premium. In the case of loans issued at a period of high interest rates the premium is very heavy. In consequence many authorities are still paying interest to the Board on old loans at comparatively high rates. Anxiety was allayed by the announcement of the first set of interest rates which were :—

Loans for periods not exceeding five years	2 *per cent.*
Loans for periods exceeding five years, but not exceeding ten years	2½ *per cent.*
Loans for periods exceeding ten years, but not exceeding fifteen years	2¾ *per cent.*
Loans for periods exceeding fifteen years, but not exceeding thirty years	3 *per cent.*
Loans for periods exceeding thirty years	3⅛ *per cent.*

At the corresponding date (August 1, 1945) the rate of interest obtainable at the current buying price on 2½ *per cent.* Consolidated Stock was 3 *per cent.* and on 3 *per cent.* Local Loans Stock—£3 2s. 10d. *per cent.*

In 1946, the Chancellor of the Exchequer was Mr. Hugh Dalton. During the course of his Budget speech he referred to the long term rate of interest. It was, he said, already below 3 *per cent.* and likely to drop still further. This statement preceded a Treasury minute dated May 31, 1946, which reduced the rates of interest payable by local authorities to the following :—

Loans for periods not exceeding five years	1½ *per cent.*
Loans for periods exceeding five years but not exceeding fifteen years	2 *per cent.*
Loans for periods exceeding fifteen years	2½ *per cent.*

At the same date 2½ *per cent.* Consolidated Stock could be bought to produce £2 11s. 6d. *per cent.* and 3 *per cent.* Local Loans Stock £2 19s. 9d. *per cent.* The higher yield of the latter stock was due to the imminence of redemption.

The rates were altered again on January 2, 1948, as follows :—

Loans for periods not exceeding five years	2 *per cent.*
Loans for periods exceeding five years but not exceeding fifteen years	2½ *per cent.*
Loans for periods exceeding fifteen years	3 *per cent.*

By this time Local Loans Stock had been redeemed, but the current yield on 2½ *per cent.* Consolidated Stock was £3 1s. 0d. *per cent.* So far, so good.

The rates of interest payable to the Board have remained unchanged since January 2, 1948, but not so the price of Government stocks. On December 30, 1949, the yield of 2½ *per cent.* Consols was £3 10s. 1d. *per cent.*—½ *per cent.* more than the corresponding P.W.L.B. rate. Earlier in 1949 it had approached 4 *per cent.*

This position does not by any means accord with the expressed intention to relate the rate of interest to the corresponding rate on comparable Government stocks.

Thus there are two prices for the same commodity in the same market. Local authority treasurers keep a close watch on prices, often to the great benefit of the ratepayers they serve, and they have not been slow to act. For instance, some very profitable switching operations have taken place. Authorities who had advanced money from their superannuation funds to mortgage pools at low rates of interest have repaid these moneys and replaced them by cheap borrowing. The amounts repaid to superannuation funds have then been re-invested in Government securities showing a much higher yield. One authority has in this fashion increased the annual investment income of its superannuation fund by £4,000, while not increasing at all the cost of borrowing on rate fund account. Another result of the situation has been a great rush of applications for new loans to the Board, in order to get money while it is cheap.

Local authorities, in the opinion of the writer, cannot be blamed in any way for taking advantage of the situation. It is their duty, and to their advantage to buy in the cheapest market, whether it is money that is for sale or any other commodity. They have taken advantage of an artificial rate to some purpose. So much so that the Ministry of Health, in a letter dated December 16 last, has found it necessary to tell authorities that they have been borrowing too much money from the Board. They must now utilize to the full other available resources and go to the Board only for the essential minimum, they must not take up loans earlier than is necessary, and they must take them up by instalments. The Board, whose current questionnaires have not attained a high degree of popularity, are now to issue new ones to see that these instructions are carried out. All this, of course, is a further restriction upon the freedom of authorities and an example of how an artificial situation spawns a control.

Whether or not the present position should continue may be a matter of opinion, but it certainly contains some curious features. For example, most post-war borrowing has been for housing purposes as the table below illustrates :—

Public Works Loan Board
Loans on Local Rates approved on and after August 1, 1945
Total advances up to March 31, 1949

Purpose	*Amount* (£000s)
Education	11,282
Health	11,847
Housing	494,326
Roads and Bridges	1,589
Town and Country Planning	2,527
Trading Services	50,548
Land Drainage	3,829
Small Holdings and Allotments	174
Reborrowings to repay other securities	33,412
Other purposes	5,524
	£615,058

In many cases, therefore, the low rate of interest on Board loans represents a form of concealed subsidy to one particular class of ratepayers, namely, the tenants of council houses. Again, the use of alternative sources of borrowing is complicated because of differences in interest rates. In spite of the Ministry's injunction, how can a treasurer recommend borrowing from another source instead of from the Board when the practical effect is to increase interest charges by anything up to ½ *per cent.*? In the past superannuation funds have provided one of the major reservoirs of money from which loans have been made. What is the rate of interest at which advances from such funds should now be made? Surely not at a lower figure than could be obtained by investment in gilt-edged securities.

One presumes that the anomalous situation created by the Ministry letter was envisaged in Whitehall before the letter was issued. However that may be, a rather extraordinary paradox has been created. Local authorities, for whose benefit the Board largely exists, are being forced, so far as possible, to borrow from other sources and pay more for their loans.

Whether the local authority associations will take action on the letter from the Ministry remains to be seen. It may be that Parliament will debate points of this sort when the Local Authorities Loans Act, s. 1, comes up for renewal.

A CALENDAR FOR THE GENERAL ELECTION, 1950

A VADE MECUM FOR ELECTION AGENTS AND RETURNING OFFICERS

By R. N. HUTCHINS, LL.B. (LOND.), *Assistant Solicitor, Derbyshire County Council*

Serial	*Principal person to take action*	*Proceeding*	*Definition of Date and/or Time*	*Date and Time. For explanation of symbols "D", "+", etc., see Notes (a)—(c) below*	*Statutory Provisions. Representation of the People Act, 1949, and Regulations, 1949*	*Remarks*
1	2	3	4	5	6	7
A	E.R.O. R.O.	Qualifying Date for the Election		June 10, 1949	Sch. I. Table I. Reg. 72.	Autumn, 1949, Register will be used.
B	R.O.	Receipt by Clerk of the Crown from R.O. of Notice requesting conveyance of Writ to A.R.O.	One month or more before the issue of the Writ.	Before January 23	Sch. 2, Part II, para. 4.	For Form, see S.R. & O., 1944 No. 334.
C	Elector and E.R.O.	Last safe day for receipt of application to be treated as an absent voter for an indefinite period under s. 13 (3).	Before the Election has begun, *i.e.*, before the day on which the Writ is received.	February 2	s. 13 (3), Reg. 25 (2) (*b*) and 71 (2).	This includes applications based on physical incapacity, nature of employment, change of address and journey by sea or air. See also note to Serial D.
D	Elector and E.R.O.	Last safe day for delivery of application for issue of a Proxy Paper (except H.M. Reserve and Auxiliary Forces).	Before the Election has begun, *i.e.*, before the day on which the Writ is received.	February 2	s. 14 (4), Reg. 30 (3) (*b*) and 71 (2).	If received after day specified and disregarded for the purposes of the election the application remains effective for later elections.
E	Elector and E.R.O.	Last safe day for receipt of application by Service voter's proxy to vote by post for an indefinite period.	Before the Election has begun, *i.e.*, before the day on which the Writ is received.	February 2	s. 15, Reg. 32 (2), 25 (2) (*c*) and 71 (2).	If received after the day specified and disregarded for the purposes of the election the application remains effective for later elections.
F	R.O.	Issue of Writ.	As soon as practicable after the issue of the proclamation summoning the new Parliament.	February 3 D DAY DAY WRIT ISSUED AND TELEGRAM RECEIVED	s. 16, Sch. 2, Pt. I, para. 1.	See 1949 Act, Sch. 2, Pt. II, para. 5, as to telegraphic intimation. For Form of Writ, see Sch. 2 Appendix.
G	CANDIDATE L.E.A. R.O.	Candidate becomes entitled to use certain Schools and Halls for public meetings.	Between the receipt of the Writ and the date of the Poll.	February 3	s. 82 and Sch. 7.	For limitations, see s. 82 and Sch. 7. Candidate pays out-of-pocket expenses only.
H	R.O. A.R.O.	Last day for R.O. to give notice to A.R.O. of duties which he reserves to himself and undertakes to perform in person.	Not later than the day following that on which the Writ is received.	+ February 4	s. 18 (1) and (2).	
I	R.O.	Publication of NOTICE OF ELECTION.	Not later than 4 *p.m.* on the second day after that on which the Writ is received.	February 6 (4 *p.m.*)	s. 16, Sch. 2, Pt. I, para. 1.	For Form, see Sch. 2 Appendix. (Not supplied by H.M.S.O.)
J	Elector and E.R.O.	Last safe day for receipt of application to be treated as an absent voter for a particular election under s. 13 (2).	On or before the second day before the last day for the delivery of Nomination Papers.	February 10	s. 13 (2), Reg. 25 (2) (*a*) and Sch. 2, Pt. I.	This facility exists for limited classes only, e.g., H.M. Reserve or Auxiliary Forces, Returning Officers' staff, Police Constables, Candidate or spouse of Candidate in another constituency.
K	Elector and E.R.O.	Last safe day for delivery to Registration Officer of application for issue of a Proxy Paper (H.M. Reserve and Auxiliary Forces).	On or before the second day before the last day for the delivery of Nomination Papers.	February 10	s. 14 (4), Reg. 30 (3) (*a*).	
L	Elector and E.R.O.	Last safe day for receipt by Registration Officer of application by Service Voter's proxy to vote by post for the particular election.	On or before the second day before the last day for the delivery of Nomination Papers.	February 10	s. 15, Reg. 25 (2) (*a*) and 32 (2).	
M	E.R.O.	E.R.O. completes preparation of (*a*) Absent Voters List. (*b*) List of Proxies. (*c*) List of Postal Proxies.	"As soon as practicable," *i.e.*, after last day for receipt of applications under serial L.	February 10	Sch. 2, Pt. III, para. 28.	For Form of Lists, see H.O. Circular R.P.A. 13, paras. 24—27.
N	R.O.	Issue by R.O. to Electors and Proxies of Official Poll Cards.	"As soon as practicable," *i.e.*, after Absent Voters List is closed and location of polling stations finally confirmed. Not before Serial W.	On or after February 13	reg. 64, Sch. 2, Pt. III, para. 29.	Forms E (Electors) and F (Proxy) Regs. 1949 Appendix. See H.O. Circulars R.P.A. 10 and 12.
O	CANDIDATE R.O.	Delivery of Candidate's NOMINATION PAPER by Candidate, his Proposer or Seconder—last day.	Between 10 a.m. and 3 p.m. on any day after Serial I but not later than the 8th day after the date of the proclamation summoning the new Parliament.	February 13 10 *a.m.*—3 *p.m.*	s. 16, Sch. 2, Pt. I, para. 3 and Pt. II, paras. 7, 8, 11 and 12.	If a Saturday, latest time is 12 noon. Form of Nomination Paper (PE.1) Sch. 2 Appendix. Para. 12 sets out persons who may attend Nominations.
P	CANDIDATE R.O.	Deposit of £150 by or on behalf of Candidate with the R.O.—latest time.	At the place and during the time for delivery of Nomination Papers.	February 13 3 *p.m.*	s. 16, Sch. 2, Pt. II, para. 10.	See para. 10 (2) and (3) for mode of making the deposit.
Q	CANDIDATE R.O.	Delivery of Candidate's CONSENT TO NOMINATION—latest time.	On or within one month before the day fixed as the last day for the delivery of Nomination Papers.	February 13 3 *p.m.*	Sch. 2, Pt. II, para. 9.	Form PE.1A. Telegram may suffice if Candidate outside U.K.
R	CANDIDATE R.O.	Delivery of NOTICES OF WITHDRAWALS of Candidatures—latest time.	3 *p.m.* on the 8th day after the date of the proclamation summoning the new Parliament.	February 13 3 *p.m.*	s. 16, Sch. 2, Pt. I, para. 1, Pt. II, para. 14.	Special provisions in para. 14(2) if Candidate outside U.K.

Serial	*Principal person to take action*	*Proceeding*	*Definition of Date and/or Time*	*Date and Time. For explanation of symbols " D ", " x ", etc., see Notes (a)—(c) below*	*Statutory Provisions. Representation of the People Act, 1949, and Regulations, 1949*	*Remarks*
1	2	3	4	5	6	7
S	CANDIDATE R.O.	Declaration in writing by or on behalf of Candidate to R.O. of name, address and office of ELECTION AGENT — latest time.	Not later than latest time for delivery of notices of withdrawals.	February 13 3 *p.m.*	ss. 55, 57 (1).	See s. 58 for effect of default in appointment of Election Agent, *i.e.*, **Candidate shall be deemed to have named himself.**
T	R.O.	R.O. gives Public Notice of name, address and office of ELECTION AGENTS of Candidates.	Forthwith upon the Declaration under Serial S above.	After Serial S.	ss. 55 (5) and 57 (1).	As to " public notice " see s. 171 (3) where it may include advertisements, placards, handbills, etc. **Form PE.25.**
U	CANDIDATE Proposer See under ELECTION AGENT	The making of OBJECTIONS to NOMINATION PAPERS.	During hours allowed for delivery of Nomination Papers and the hour following (see also remarks) on the last day for delivery thereof.	February 13 10 *a.m.*— 4 *p.m.*	s. 16. Sch. 2, Pt. I, para. 1, Pt. II, para. 12.	See Sch. 2, Pt. I, para. 1, for special rules (a) restricting the scope of objections delivered during the 24 hours next before the last time, and (b) as to Saturday.
V	R.O. CANDIDATE	R.O. gives NOTICE to each CANDIDATE of TIME and PLACE of ISSUE of POSTAL BALLOT PAPERS— last day.	Not later than last day for delivery of Nomination Papers.	February 13	**Reg. 40** (1) and (1) 38 (2).	Notice also states number of agents each Candidate may appoint to attend. **Form PE.27.**
W	R.O.	**Publication of Statement of persons nominated and NOTICE of Day and hours of poll.**	At the close of the time for making objections to nomination papers or as soon thereafter as any objections are disposed of.	After February 13 4 *p.m.*	s. 16. Sch. 2, Pt. I, para. 1, Pt. II, paras. 15 and 23 (1).	See also note to Serial AC. See s. 171 (3) for methods of publication. **Form PE.2.** For UNCONTESTED ELECTIONS, see Sch. 2, paras. 17 (2) and 51 (2). (**Form PE.2a.**)
X	*R.O. (County Constituencies only).*	*R.O. delivers to Principal Post Office for place of Nomination, paper giving Candidate's names, and day and hours of poll.*	*On publication of Statement of persons nominated and notice of poll.*	*After February 13 4 p.m.*	*Sch. 2, Pt. III, para. 23(3).*	*Under para. 23 (4) Postmaster shall forward information by telegraph to all postal telegraph offices in the county constituency where it shall be published.* **Form PE.4.**
Y	R.O. and others	**R.O. appoints Presiding Officers, Poll Clerks and Counting Assistants.**	No time specified but after it is known contest will take place.	After February 13	Sch. 2, Pt. III, para. 27.	**Forms PE.8, 9 and 10.**
Z	R.O. CANDIDATE	**R.O. notifies Candidate of number of Counting Agents whom he may appoint to attend the Count.**	No time specified. After R.O. has decided the number of Counting Assistants he will employ.	After Serial Y	Sch. 2, Pt. III, para. 31.	R.O. may limit number of Counting Agents so long as total allowed is not less than total of Counting Assistants employed by R.O. The number must be the same for each Candidate.
AA	CANDIDATE	**Candidate's right to send election address post free may be exercised without giving security to P.M.G.**	After publication of Statement of persons nominated.	After February 13 4 *p.m.*	s. 79.	If election address sent before this time, P.M.G. may demand security for payment of postage.
AB	CANDIDATE R.O.	**Notice by Candidate of Appointment of Agents to attend at issue of POSTAL BALLOT Papers.**	Before time fixed under Serial V for issue of Postal Ballot Papers.	After February 13	Reg. 38 (3).	For permitted number see Serial V and Reg. 38 (2).
AC	R.O.	R.O. gives PUBLIC NOTICE of Polling Stations, voters entitled to vote and mode of voting.	At the time of publishing Statement of Persons nominated under Serial W or afterwards.	February 13 or after	Sch. 2, Pt. III, para. 23(2).	As to " public notice," see s. 171 (3). This notice may be combined with serial W.
AD	R.O.	R.O. issues Postal Ballot Papers.	" As soon as practicable," *i.e.*, as soon after February 13 as Ballot Papers printed.	After February 13	Sch. 2, Pt. III, para. 25. Reg. 36-46.	Ballot paper accompanied by Declaration of Identity (**Form PE.46**) and envelope for their return. **Form PE.45a** also used for postal proxy.
AE	CANDIDATE R.O.	**Notice by Candidate or Election Agent to R.O. of particulars of (a) Polling Agents for detecting personation, and (b) Counting Agents.**	Appointment made before commencement of poll. Notice as to Counting Agents not later than second day before day of the poll.	February 21 (latest).	Sch. 2, Pt. III, para. 31 (3).	For formula limiting number of counting agents, see Sch. 2, Part III, para. 31 (1).
AF	*Election Agent (County Constituencies only).*	*Election Agent to declare in writing to the R.O. the name, address and office of every Sub-Agent—last day.*	*One clear day before the day of the poll.*	*February 21*	ss. 56 (3) *and* 57.	*Applicable to County Constituencies only.*
AG	*R.O. (County Constituencies only).*	*R.O. gives Public Notice of name, address and office of Sub-Agents.*	*Forthwith upon Declaration under Serial AF.*	*After Serial AF*	ss. 56 (3) *and* 57.	*Applicable to County Constituencies only. As to public notice, see* s. 171 (3).
AH	R.O. Police R.O.'s staff	Giving of Certificate of Employment to (a) Police Constable and (b) R.O.'s staff on duty on Polling Day.	No time specified. Normally before Polling Day.	February 22	s. 23 (6). Reg. 34. Sch. 3, Pt. III, para. 33 (2) and (3).	**Form PE.7** (Regs. Appendix Form "G"). To be signed by Police Inspector or R.O. as case may be.
AI	CANDIDATE or ELECTION AGENT R.O.	Last day for Candidate to send to R.O. **Notice as to Vehicles** for conveyance of voters to or from Poll.	So as to be received by R.O. before the day of the Poll.	February 21	s. 88. Reg. 63.	**Form PE.47** available for windscreen of such vehicles. Limit of vehicles employed by Candidate: one per 1,500 electors for 2,500 for Borough Constituencies).
AJ	R.O. CANDIDATE	**Notice by R.O. to Candidate as to time and place of Opening Postal Voters' Ballot Boxes.**	At least twenty-four hours' notice in writing.	February 21	reg. 48 (2).	Notice also states number of Agents Candidate may appoint under reg. 38 (2). **Form PE.28.**

Serial	Principal person to take action	Proceeding	Definition of Date and/or Time	Date and Time. For explanation of symbols "D", "+", etc., see Notes (a)—(c) below	Statutory Provisions. Representation of the People Act, 1949, and Regulations, 1949	Remarks
1	2	3	4	5	6	7
AK	CANDIDATE R.O.	Notice by Candidate to R.O. of names and addresses of Agents to attend at opening of Postal Voters' Ballot Boxes.	Before time fixed for opening Postal Voters' Ballot Boxes.	Before Polling Day	reg. 38 (3).	
AL	General	Declaration of Secrecy.	Before the opening of the Poll except for persons attending the count only.	Before Polling Day	s. 53 and Sch. II, Pt. III, para. 32.	Forms PE.15, 16 and 55 (Postal Ballot Papers staff).
AM	R.O. Counting Agent	R.O. gives Notice in writing to Counting Agents of time and place when counting of votes will begin.	No time specified but must be before count begins.	Before Polling Day	sch. 2, Pt. III, para. 45 (1).	Form PE.18. It is customary to give notice to Candidates also.
AN		POLLING DAY.	Between 7 a.m. and 9 p.m. on the 9th day after the last day for delivery of Nomination Papers.	Thursday FEBRUARY 23 POLLING DAY	s. 16 and Sch. 2, Pt. 1, para. 1.	Form PE.26. (Result of Poll.)
AO	R.O.	THE COUNT.	As soon as practicable after the Close of Poll.	February 23 or 24 or after.	Sch. 2, Pt. III, paras. 45—50.	The Count may not be adjourned except with consent of Candidates, their election or counting agents. See Sch. 2, Pt. V, paras. 55 and 56 as to verification of Ballot Paper Accounts and Delivery of Documents.
AP	R.O.	R.O. (a) Makes Declaration of Result. (b) Returns name of elected Candidate to Clerk of the Crown. (c) Give Public Notice of Result.	When result of the Poll has been ascertained.	February 23 or 24 or after DAY RESULT DECLARED	Sch. 2, Pt. IV, paras. 51 and 52.	Form of Return Sch. 2 Appendix. As to "public notice," see s. 171 (3). Forms PE 26 (Result of Poll), 19 and 20.
AQ	R.O. CANDIDATE	R.O. returns Deposit (£150) to Candidate. (See Col. 7.)	As soon as practicable after the result of the election is declared.	DAY RESULT DECLARED or after	Sch. 2, Pt. IV, para. 54.	Candidate's deposit forfeited if he does not poll one-eighth of total votes polled.
AR	Various. ELECTION AGENT	Last day for sending to Election Agent claims in respect of Election Expenses.	Within fourteen days after day result of election is declared.	D.R. + 14	s. 66 (1).	Claim is barred if not made in time.
AS	CANDIDATE	Candidate sends to Election Agent written statement as to Personal Expenses.	Within time limited for sending in claims, *i.e.*, within fourteen days after day result of election is declared.	D.R. + 14	s. 62 (2).	Maximum expenditure in s. 62 (1) is £100.
AT	PERSON AUTHORIZED BY ELECTION AGENT	Sending of Statement of Particulars as to Petty Expenses authorized in writing by Election Agent.	Within time limited for sending in claims. See Serial AR.	D.R. + 14	s. 62 (4).	Payments must be vouched for by a bill with receipt.
AU	CERTAIN PERSONS AUTHORIZED BY ELECTION AGENT R.O.	Last day for sending to R.O. and Clerk of the Crown of Return and Declaration of certain expenses by persons authorized in writing by Election Agent.	Within fourteen days after date of publication of the Result of the Election.	D.R. + 14	s. 63 (2) and (4).	See s. 63 for important qualification. Not applicable to persons engaged or employed for payment by Candidate or Election Agent.
AV	ELECTION AGENT	Last day for Paying claims for Election Expenses.	Within twenty-eight days after the day the result of the Election is declared.	D.R. + 28	s. 66 (2).	See s. 66 (3)—(7) for exceptional cases.
AW	ELECTION AGENT R.O.	Last day for transmission to R.O. of Return and Declaration of Election Agent as to Election Expenses.	Within thirty-five days after day the result of the Election is declared.	D.R. + 35	ss. 69, 70 and Sch. 5.	For Form and content of Return and Declaration, see s. 69 and Sch. 5.
AX	CANDIDATE	Last day for transmission to R.O. of Declaration by Candidate as to Election Expenses.	Within seven days after Return under Serial AW.	Serial AW + 7	s. 70 (2) and Sch. 5.	See s. 70 for special provisions if Candidate outside U.K. or acting as his own Election Agent. See also note to Serial AW above.
AY	R.O.	Publication by R.O. in two local newspapers of Summary of Return as to Election Expenses.	Within ten days after R.O. receives from Election Agent Return under s. 69 (See Serial AW).	Serial AW + 10	s. 70.	R.O. shall also provide facilities for inspection. Fee 1s. Copies at 2d. per 72 words. See s. 77.
AZ	PETITIONER R.O.	Last day for Presentation of Election Petition — (a) General. (b) Alleging illegal practice in connection with the Return of Election Expenses.	(a) Within twenty one days after the Return has been made to Clerk of the Crown. (b) Not later than fourteen days after the last Return and Declaration under Serial AW and AX.	Serial AP + 21 Serial AW & AX + 14	(a) s. 109 (1). (b) s. 109 (3) and (4).	See s. 109 (2) and (3) (b) for special provisions for extension of time where allegations of certain payments made. R.O. is required to publish Petition: see s. 108 (4).
BA	PETITIONER	Petitioner gives Security for costs of Election Petition (£1,000).	Within three days after presenting Election Petition.	Serial AZ + 3 days	s. 119 (1).	
BB	PETITION	Service by Petitioner on Respondent of Notices as to Petition and Security.	Within the prescribed time not exceeding 5 days after Serial AZ.	Serial AZ + 5 days	s. 119 (3).	Respondent may object: s. 119 (4).
BC	R.O.	Register of Vehicles ceases to be available for inspection and R.O. shall destroy it.	After one year from the day of the Poll.	PD + 1 year	reg. 63 (5).	

Serial	Principal person to take action	Proceeding	Definition of Date and/or Time	Date and Time. For explanation of symbols "D", "-", etc., see Notes (a)–(i) below	Statutory Provisions, Representation of the People Act, 1949, and Regulations, 1949	Remarks
1	2	3	4	5	6	7
0D		**Commencement of proceedings for offence under s. 73** (Penalty for sitting or voting after failure to transmit return, etc.).	Within one year after offence committed.	After DR — one year	s. 73 (3)	See s. 73 for special cases.
		Commencement of proceedings for certain offences. (See Remarks.)	Within one year after the offence committed.	One year	s. 154	See ss. 154 and 155 for special cases. Offences are corrupt or illegal practice, illegal payment, employment or hiring or any offence under ss. 80 (1), 95 or 129.
0E	R.O.	**Returns and Declarations cease to be available for inspection** and R.O. may destroy.	Two years after Returns, etc., received by R.O. under ss. 63, 69 and 70.	D.R. — two years forty-two days	s. 77	If candidate or election agent so require documents shall be returned to candidate. See also Note (c).

NOTES

(a) "D" = Day of receipt of official telegraphic intimation of the Writ having been issued. For the purposes of this Table it is assumed that such telegram will be received on the same day as the date of the Proclamation summoning the new Parliament. Action may be taken on receipt of telegram as if Writ had been received. Sch. 2, Pt. II, para. 5.
E.R.O. = Electoral Registration Officers. (See s. 63). L.E.A. = Local Education Authority.
P.D. = Polling Day. D.R. = Day Result Declared. R.O. = Returning Officer. (See ss. 17 and 18 as to discharge of functions.)

(b) Plus sign thus "+ s." indicates period (in days unless otherwise stated) after the day specified.

(c) *Destruction of Election Documents.* The Clerk of the Crown normally destroys all election documents after one year. Sch. 2, Pt. V, para. 58.

(d) "Regs." refers to the Representation of the People Regulations, 1949, S.I. 1949 No. 327, which may be found annotated in Butterworth's Emergency Service, Title "E".

(e) "S." refers to Sections of the Representation of the People Act, 1949, which may be found annotated in Halsbury's Statutes (2nd Edn.), Volume 8, published December, 1949.

(f) "Sch." refers to Schedules of the Representation of the People Act, 1949. (Schedule 2 includes the Parliamentary Election Rules).

(g) TIME. In general Sundays and public holidays are excluded in reckoning time for any proceedings up to the completion of the Poll. See Sch. 2, Pt. I, para. 2. See also s. 106 R.P.A., 1949 and reg. 69.

Reprints of this Calendar are available from the Publishers, Justice of the Peace, Ltd., Little London, Chichester, Sussex. Price 9d. each or 7s. 6d. per dozen, post free.

NEW COMMISSIONS

CUMBERLAND COUNTY

Peter George Cross, Middleton Place Crossing, Bootle, Cumberland.
Herbert White Dennison, 51, Castle Drive, Penrith.
John Edwin Harrington, Woodhouse, Citterlen, Penrith.
Miss Beatrice Mary Haswell, The Friarage, Penrith.
Thomas Gallantry McKeating, 32, Victory Crescent, Netherton, Maryport.
The Right Hon. Lord Rea, Eskdale, Holmbrook, Cumberland.
Lady Rochdale, Lingholm, Keswick.
Archibald Rowe, 63, Cumberland Street, Workington.
John Scott, Hillcrest, The Hill, Millom.
John Simpson Swales, Park House, Alston.
Mrs. Margaret Ann Wilson, 46, Carleton Drive, Penrith.

DARLINGTON BOROUGH

Alwyn Joseph Alsop, 25, Pierremont Gardens, Darlington.
Robert Leslie Clark, Dene Grove, Darlington, Co. Durham.
Mrs. Elizabeth Paton Rowland Currie, 27, Marina Road, Darlington.
Percy Longstaff, 242, North Road, Darlington.
William Hoffman McGee, 78, Greenbank Road, Darlington.
Stanley Alexander Sadler, Lesden, 38 Abbey Road, Darlington.
Mrs. Dorothy Evelyn Stubbs, 46, Stanhope Road, Darlington.

GATESHEAD BOROUGH

Mrs. Edith Mary Brown, 32, Limetrees Gardens, Gateshead.
Dennis Gordon Davidson, Plas Derwen, Calderwood Crescent, Low Fell, Gateshead, 9.
Mrs. Dorothy Agnes Grant, 28, Derwent Avenue, Low Fell, Gateshead, 9.
Frederick Allen Kelly, Westwynds, Lyedhurst Grove, Low Fell, Gateshead, 9.
John Lishman, Cross Keys House, Low Fell, Gateshead, 9.

GUILDFORD BOROUGH

Kenneth Martin Brooks, Orchards, West Clandon, Near Guildford, Surrey.
Robert Brian Leighton, 53, Farnham Road, Guildford.
Francis Edward Pearne, 21, Waterden Road, Guildford.
Eric Thomas Thurlow, Wanborough Manor, Near Guildford.

PERSONALIA

APPOINTMENTS

Mr. David James Rook, assistant solicitor to the Worcestershire county council, has been appointed deputy clerk of the Isle of Ely county council.

Mr. W. Burnstone, senior assistant solicitor to Derby corporation, has been appointed chief assistant solicitor to the East Midlands Gas Board. Mr. Burnstone was admitted in 1936.

Mr. James Tillotson Hyde, legal adviser to the Ministry of Food, has been appointed clerk of the Leighton Buzzard urban district council. Mr. Hyde is forty-six years of age and has previously spent two years in the town clerk's office, Bradford, and the town clerk's office, Halifax. He was also general legal adviser to the National Council of Social Service. He takes the place of Mr. Alexander C. Ross, D.P.A., who has held the appointment since 1946. Mr. Ross has been appointed clerk of the Whitby urban district council. He was previously assistant town clerk to the Dunstable borough council, and he is forty-four years of age.

Mr. J. B. Measures, assistant solicitor to the city of Birmingham, has been appointed deputy clerk and solicitor to the New Forest rural district council. Mr. Measures is thirty-four years of age and was admitted in 1947, having served his articles with the town clerk of Guildford. During the war he served in the army.

The Minister of Health has approved the appointment as public relations and principal press officer to the Ministry of Mr. S. A. Heald, O.B.E., now serving as director, reference division, in the Central Office of Information.

OBITUARY

Sir Francis Robert Ince Anderton, chairman of the London county council from 1922 to 1923, died on January 4 at his home at Windsor at the age of ninety. Educated at the Oratory School, Edgbaston, and London University, he was called to the Bar by Lincoln's Inn in 1882 and practised on the Northern Circuit. From 1905 to 1927 he was secretary of the Catholic Education Council of Great Britain. He was knighted in 1923 and retired from municipal life in 1931.

Alderman William Albert Robinson, for many years a member of the Liverpool city council, died at Liverpool on December 31, 1949, at the age of seventy-two.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 5.

MISUSE OF BENZOLE AND WHITE SPIRIT

Two men appeared before the Sheffield justices on November 14, 28 and 29 last to answer 146 charges, each of which alleged a contravention of art. 5 (6) of the Motor Fuel (Control) Order, 1948. Of the seventy-four charges preferred against the first defendant, seventy-three alleged that he had, upon stated dates, caused benzole (other than motor benzole) to be used for supplying motive power to an internal combustion engine otherwise than under the authority of a licence; the remaining summons alleged that white spirit had similarly been supplied improperly. The second defendant was similarly charged.

For the prosecution, it was stated that the first defendant carried on business in a firm name and at the material times he had premises in London and Sheffield. The second defendant was branch manager at Sheffield.

It was the practice of the first defendant to obtain supplies of pure benzole on his statement that the benzole was only to be used in connexion with his business as a paint stripper and he bought in quantities of 400 gallons at a time. As benzole freezes at a high temperature the first defendant obtained supplies of white spirit by again stating that it was required for paint stripping and he had the benzole mixed with white spirit. The mixture so obtained froze at a much lower temperature than pure benzole.

The prosecution alleged that both defendants sold the mixture to various buyers for use in motor cars without requiring the surrender of any coupons at prices varying between 6*s.* and 6*s.* 6*d.* per gallon.

For the defendants, who pleaded not guilty, it was argued that they were carrying on a genuine business of selling paint stripper and that if the mixture had been poured into the tanks of private motor cars by their servants it was done without their knowledge or previous authority or subsequent ratification and in any case it was quite outside the scope of the servants' authority.

The Bench dismissed four charges holding that they had not been proved and convicted upon the remainder.

The first defendant was fined £3 on each of seventy-two charges and ordered to pay £52 10*s.* costs, and the second defendant was fined £3 upon each of seventy charges.

COMMENT

Article 5 (6) of the Order provides that except by licence no person shall use any benzole (other than motor benzole), special boiling point spirits, white spirit or rubber solvent for supplying motive power to an internal combustion engine, or cause or allow any such use.

It is understood that the reason for the prohibition upon the use of pure benzole as motor benzole is that it is refined to an extent which is not necessary for use in a motor car and that it can only be bought in "dollar" countries.

(The writer is greatly indebted to Mr. L. M. Pugh, clerk to the Sheffield justices, for information in regard to this case.) R.L.H.

No. 6.

A FATAL ACCIDENT AND THE SEQUEL

A limited company was summoned to appear at Caterham magistrates' court recently in respect of two charges laid under the Factories Act, 1937.

The first charge alleged an offence under s. 130 (1) of the Act in that the company, being persons undertaking building operations, were occupiers of a certain factory within the meaning of s. 107 (2) of the Act at named premises and that the said building operations were subject to the Building (Safety, Health and Welfare) Regulations, 1948, made in pursuance of the Act and that on a certain date the company being employers of workmen contravened reg. 22 (a) of the said regulations in that the top working platform at the named premises from which a person was liable to fall more than six feet six inches was not closely boarded, planked or plated.

The second charge also alleged a contravention of s. 130 (1) in that the company had failed, as provided by s. 107 (3) of the Act, within seven days of undertaking building operations, to serve a written notice on the inspector for the district stating the particulars prescribed by subs. (3) of the section.

For the prosecution, it was stated that the company was employed in renovating bomb-damaged buildings and work was being carried out on a roof when a workman fell to the ground and was killed. The working platform, which was eighteen feet from the ground, consisted of three boards instead of five. It was stated that failure to have the platform closely boarded might have caused the accident.

For the company, a plea of guilty was entered to both charges, and it was stated that this was the company's first building operation since the early days of the war. There had been delay in obtaining a licence for planks and a further delay in obtaining delivery.

The court imposed a fine of £5 upon the first charge, £1 upon the second and ordered payment of £3 14*s.* 6*d.* costs.

COMMENT

At first blush it seems odd to apply the provisions of the Factories Act to private houses, but s. 107 (2) of the Act specifically enacts that the provisions of the Act in their application to building operations shall have effect as if any place where such operations are carried on were a factory.

Regulation 22 of the regulations referred to above contains elaborate provisions as to the width of working platforms from which a person is liable to fall more than six feet six inches and it is further provided that all platforms are to be closely boarded, planked or plated.

By s. 180 of the Act, any contravention of the Act or any regulation or order made thereunder is created an offence, and s. 131 prescribes a penalty of a fine not exceeding £20 for an offence for which no express penalty is provided by the Act. If contravention continues after conviction or, if the court at the time of conviction has made an order allowing a prescribed period in which the contravention is to be remedied, after the expiration of the period allowed, it constitutes a further offence carrying a penalty of £5 per diem.

Where any person is killed, or dies or suffers any bodily injury, in consequence of a contravention of the Act or regulation or order made thereunder by s. 133 the occupier (or owner) of the factory becomes liable (subject to certain exceptions) to a fine not exceeding £100, and subject to the provisions of s. 5 of the Criminal Justice Act, 1914, the whole or any part of the fine may be applied for the benefit of the injured person or his family as the Secretary of State determines.

Although in the case under review a workman had been killed on the site, the prosecution did not proceed under this section of the Act, as there was no evidence in their possession that the workman had died as a consequence of the contraventions of the Act.

(The writer is greatly indebted to Mr. D. H. John, LL.B., clerk to the Godstone justices, for information in regard to this case.) R.L.H.

PENALTIES.

Watton—December, 1949—(1) stealing a spirit level value £2 10*s.*, (2) stealing various articles of a total value of £6 5*s.* 6*d.*—fined a total of £10. All the articles were identified as the property of the Air Ministry. Defendant a fitter.

Marylebone—December, 1949—stealing a toy pistol, a bag, book, mouth organ, flute, printing outfit, toy roundabout, cigarette case and powder compact—absolute discharge. Defendant, a forty-eight year old labourer earning £5 3*s.* 6*d.* a week, was unable to afford Christmas presents for his ten children living in Bristol. He stole the toys to send home to his children, six of whom were still at school. A detective said that the defendant sent £4 10*s.* a week to his wife to support the family and she also received his disability pension of 6*s.* per week.

Cardiff—December, 1949—knowingly dealing in 132 uncustomed watches (two defendants). The managing director, aged fifty, of the company concerned was sentenced to three months' imprisonment and the company was fined £2,000 and ordered to pay £26 5*s.* costs.

Oxford—December, 1949—failing to ensure the safety of passengers on a bus—fined £2. Defendant the conductor of a bus which dragged for several yards a seventy-nine year old woman who was boarding it as it moved off. The woman was dragged along and injured her knees and had not been able to walk properly since.

Oldbury—December, 1949—maliciously maiming and killing fifteen pigeons (three charges)—fined a total of £15. To pay 13*s.* 1*d.* costs. Defendant, an eighteen year old youth, entered a pigeon pen at night after having drunk some beer and strangled and maimed the pigeons. The chairman referred to the offence as "diabolical cruelty."

Manchester—December, 1949—stealing ties, stockings, toys, perfume, braces and other articles worth 46*s.* 5*d.*—absolute discharge. Defendant, a forty-eight year old policeman with twenty-five years' unblemished service, was within three weeks of being entitled to retire on pension and was on risk to forfeit his pension.

REVIEWS

Hill and Redman's Complete Law of Landlord and Tenant. Second Cumulative Supplement to Tenth Edition. By W. J. Williams and Miss M. M. Wells. London: Butterworth & Co. (Publishers) Ltd. Price 7s. 6d. net.

Hill & Redman is so well established as a leading textbook for every-day use upon the law of landlord and tenant that many of our readers will be glad to know of the appearance of this second cumulative supplement to the tenth edition. The main work is still procurable at a cost of three guineas, with the supplement included, and the supplement brings the law up to date as at the Long Vacation of 1949. It is on the usual pattern for supplements to the *Modern Text-Books* of these publishers, with a strong tag for fitting into the back cover. Since the tenth edition appeared there have been important Acts dealing with agricultural tenancies and rent control, amongst other matters, and a fair sprinkling of decided cases. The mixer-up thus comprises some sixty pages, keyed to those of the main volume, and the text of some of the statutes is appended—"some" because, if the cumulative supplement had attempted to print the whole of those we have mentioned, it would have defeated its purpose owing to their great bulk. But there is a clear head note to division II of the supplement, explaining how it comes about that some provisions have been taken and others left. With *Hill & Redman* in the tenth edition, and this supplement, the lawyer can feel safe upon any ordinary topic in the field of landlord and tenant.

The National Assistance Act, 1948. By R. D. Steele. London: Butterworth & Co. (Publishers) Ltd. Price 15s. net.

The National Assistance Act, 1948, is on the face of it a kind of attenuated ghost. Some of the central provisions of the poor law statutes, beginning with Elizabeth, are still there, but the Act forms one of the "social security" family and, accordingly, much which used to be treated within the framework of the poor law has disappeared. A good deal of what used to be there remains, but in an altered shape: for example, the maintenance obligations of the members of a family, while the administration of the law has largely (but not entirely) been taken out of the hands of local authorities. For these reasons it will serve even the most experienced administrator to have at hand an annotated copy of the Act. Even though, we suppose, there cannot now be many questions for the practising lawyer to handle under the heading of national assistance, yet the private practitioner can never be sure what will come next, and can relieve himself of the possible embarrassment of not being sure about a client's rights or obligations, by having such a book at hand. The Act itself is annotated, section by section, as fully as is necessary to link particular provisions together, and to show their connexion either with the old law or with other members of the social security family. This sectional treatment is preceded by a general introduction, quite short but readable and adequate, where the possessor of the book will find, picked out in differential type, a number of the every-day matters about which he may want summary information in a hurry, from amendments of the Old Age Pensions Act, 1936, to entry and inspection, or the ascertainment of war savings. The statutory instruments which have so far been made under the Act of 1948 are printed at the end on coloured paper, thus assisting the reader in referring to them. For every day purposes we do not think anyone is likely to need more information about the Act of 1948 than Mr. Steele has given him.

Freedom Under the Law. By The Rt. Hon. Sir Alfred Denning. London: Stevens & Sons, Ltd. Price 8s. net.

This small book consists of four lectures delivered by Lord Justice Denning under the auspices of the Hamlyn Trust. Under a scheme sanctioned by the Court, lectures were to be given with the object that the common people of this country may realize "the privileges which in law and custom they enjoy in comparison with other European peoples, and realizing and appreciating such privileges may recognize the responsibilities and obligations attaching to them." This was a noble theme, and few men can be better qualified than Lord Justice Denning to expound it. The lectures abound in historical and legal illustrations of the development of our law and its administration, and show how hard fought were some of the battles for the freedom of the individual. In the end, the reader is left with a profound sense of thankfulness for the common law, the independence of the judges, the right to trial by jury and the English police system, all of which are strong supporters of the rights of individuals, even against the State.

The titles of the four lectures are: Personal Freedom; Freedom of Mind and Conscience; Justice Between Man and the State; and The Power of the Executive.

The fact that in England the executive has no right to deprive a man of his liberty except by course of legal procedure was demonstrated quite recently in the case of *R. v. Governor of Wandsworth Prison, ex parte Boydell* [1948] 2 K.B. 193, to which the lecturer called attention. As is well known, this is far from being the position in some other countries, but in England *habeas corpus* is still a strong safeguard of the liberty of the individual, and no government, no party in power, is above the law. In wartime, unfortunately, emergency measures have sometimes infringed this principle, but it was not allowed to be forgotten, as witness Lord Atkin's moving words when he dissented from other opinions in *Liversidge v. Sir John Anderson* [1942] A.C. at p. 244: "In this country, amid the clash of arms, the laws are not silent. They may be changed but they speak the same language in war as in peace. . . . I protest even if I do it alone, against a strained construction put on words with the effect of giving an uncontrolled power of imprisonment to the Minister."

Lord Justice Denning emphasizes the complete indifference of English courts to questions of race, creed or politics, and their scrupulous regard for the legal rights of every man. After quoting Lord Mansfield's judgment in the case of the slave James Sommersett with its famous "Let the black go free," he proceeds to compare it with Sir Laurence Dunne's refusal, at Bow Street in 1949, to commit the Communist, Gerhardt Eisler, for extradition to the United States, and adds that this was a case of "Let the 'red' go free."

The history of the English police system and the way in which powers of arrest and detention are circumscribed are emphasized, and contrasted with the power and practices of the police in many other lands. Lord Simonds is quoted: "Blind unquestioning obedience is the law of tyrants and of slaves: it does not yet flourish on English soil . . . Arrested with or without a warrant, the subject is entitled to know why he is deprived of his freedom, if only in order that he may, without a moment's delay, take such steps as will enable him to regain it." The astonishing thing is that it appears to be the law in France that however illegally the police act, even if they beat him and force their way into his house a man must not hit back or defend his house; he must submit and complain afterwards.

But although there is so much in these lectures to inspire pride in our own institutions and ways of life, there are warnings of dangers to our cherished freedom. The extension of the common law charge of doing a public mischief might well lead to something like the Soviet view of crimes against the State. It is noticeable that from time to time reference is made to Soviet theory and method, but there is no wholesale condemnation, but rather a recognition of the reasoning behind policies of which most people in this country, like Lord Justice Denning himself, must disapprove. This moderation, like his recognition of the excellence of the work of the French administrative courts, strengthens his arguments in favour of the maintenance of our own tried and trusted methods.

To the independence of judges from all executive interference the lecturer naturally ascribed supreme importance, for the judges could if necessary stand between the subject and the State, as they have done in the past. As for the jury, Sir Alfred Denning gives it full measure of praise, backed by historical examples, and he says: "If there were ever any possibility in this country of the judges being influenced by the party in power or the State, as happened in Nazi Germany and happens now in Russia, there would yet stand, between the accused and his oppressors, a jury of his fellow countrymen."

The increased control by the State over various activities of individuals is recognized as necessary under present-day conditions. Lord Justice Denning's plea is that wherever powers are necessarily entrusted to executive authorities, there should always be the opportunity of recourse to the courts. He thinks that departmental tribunals have generally done their work well, but he feels that there should be a right of appeal to superior courts from their decisions.

The Police College Magazine. Volume 1, No. 2, 1949. The Police College, Ryton-on-Dunsmore, Warwickshire. Annual subscription 4s.

This is a record of events and progress at the Police College, Ryton-on-Dunsmore, published twice yearly. It is of the greatest interest to police officers of all ranks and to many others who are in some way concerned with the work and organization of our police. Everyone who has visited the college must have been impressed by its atmosphere, at once business-like and friendly, and by the keenness of the Commandant, Brigadier Dunn, and his staff, a keenness which obviously infects the students who come there from all parts of the country.

This issue of the *Magazine* has a send-off from Sir Frank Newsam, Permanent Under Secretary of State, Home Office, and contains a number of important articles, together with some excellent illustrations. The articles include a memorable address given by Sir

Alexander Maxwell, formerly Permanent Under Secretary of State, Home Office. His theme was The Police as Guardians of Public Liberty, and he showed just why the British police enjoy the confidence of the public and are indeed guardians of our liberty. Sir Alexander also showed how easily a few determined men can, in certain circumstances, usurp power and turn a free country into a police state by a series of adroit moves, among which is the capture of the police at an early stage. Such an address must have brought home to many a police officer a realization of the tremendous importance of preserving the British police ideal and of living up to the high traditions established during a history of a hundred years; altogether a first rate number of a magazine which should enjoy a wide circulation.

MISCELLANEOUS INFORMATION

SOCIAL SECURITY IN WESTERN UNION
WORK OF THE SOCIAL COMMITTEES

Since the 6th Session of the Consultative Council, which was held in Luxembourg on June 17 and 18, 1949, the following progress has been achieved with regard to collaboration between the Five Powers on social matters:—

In the field of Public Health, a continuous exchange of documentation is regularly taking place on health legislation, statistics and other information through the liaison sections which have been set up in the five Ministries of Health.

The programme for the exchange of medical and para-medical personnel, which was drawn up during the summer, has been put into operation; ten doctors, members of the public health administration, statisticians or chemists belonging to the five signatory countries of the Brussels Treaty, will have visited the four other countries before the end of the year in order to study the administrative structure and methods in current use with regard to Public Health. The programme of exchanges for 1950 has been settled, and will enable a further thirty-five specialists to carry out similar instructive visits.

The committees which have been given the task of examining the problem of the reciprocal recognition of medical, para-medical and other qualifications are pursuing their studies.

Directors of National Laboratories for the control of anti-venereal medicaments have had a meeting in Utrecht, at which they compared methods and results concerning the therapeutic value of their medicaments.

Three sub-committees have met to study the problem of the standardization of methods of control with regard to foodstuffs (milk, wine, butter, meat, etc.), drinking-water and sewage water, and have drawn up reports on these subjects. Standardization of the control of drinking-water has already reached an advanced stage; as regards foodstuffs, considerable work remains to be done on lines already laid down. The problem of sewage-water is to be settled by means of bilateral conventions.

Last April, as a result of the meeting of a sub-committee of experts to study health control in respect of sea and air transport, certain decisions of principle were taken. Various outstanding technical difficulties were settled during the last session of the Public Health Committee, held in Luxembourg on October 12 and 13. All the necessary regulations will be brought into force to enable the Five Countries to be treated as a single territory for the purposes of health control in respect of sea and air transport.

The War Pensions Committee has completed the greater part of its task, having submitted a number of recommendations with a view to the harmonization of the war pensions systems in the Five Countries on certain specific points.

With regard to questions of manpower, the following subjects are being studied:—

1. Stage reached in the conclusion of bilateral conventions concerning workers and frontier labour;
2. Exchange of student employees;
3. Organization of employment exchanges.

On the subject of conditions of work and Social Policy in General, there is a constant exchange of information through the liaison sections set up in the five Ministries of Labour. The Social Committee, which met in Paris on November 22, 1949, for its fifth session, concluded an inquiry into the application of the ninety International Labour Conventions, continued its work of comparing wages and social costs in the Five Countries—of particular importance to the whole problem of social collaboration, and began a study of:—

1. The organization and functioning of Labour Inspection Services in the Five Countries;
2. The minimum standards of safety appliances for machinery exported within the Five Countries.

SOCIAL SECURITY IN WESTERN UNION

Multilateral Convention on Social Security—Annex I.

The Five Powers of the Brussels Treaty Organization, France, Belgium, Luxembourg, the Netherlands and the United Kingdom, are negotiating a series of bilateral agreements which will link the social security schemes of the five into a network covering such benefits as those provided for sickness, invalidity, old age, death, maternity, industrial injuries and prescribed occupational diseases for their nationals, no matter in which of the Five Countries they may be living, or have lived.

Some of these bilateral agreements have already been concluded and others are still being negotiated.

The Five Powers have now agreed to add to this network a Multilateral Convention, just signed. The effect of this Convention will be first, to enable a national of any of the Five Countries to benefit from any of the bilateral agreements reached between them. For example, a British subject who has been insured in France and Belgium can benefit from the bilateral agreement between those two countries equally with their own nationals.

Secondly, the new Convention will make provision for the case where a national of any of the Five Countries has been insured in three or more of the countries. In such a case, the principle adopted is to apply to him the provisions of all the relevant bilateral agreements. For instance, where a Frenchman has worked in the United Kingdom, France and the Netherlands, his contributions or insurance periods in those three countries will be added together so as to give him pension rights. Each country will calculate the amount of the pension to which he would have been entitled if his insurance had all been in that country, and will pay him the proportion of that amount corresponding to his actual length of insurance there. If his insurance in a particular country is governed by two different bilateral agreements, then the one which gives the calculation most favourable to him will be applied.

The convention also enables nationals of any of the five countries who go to reside in any one of those countries to take advantage of the provisions of the bilateral agreements which provide for the preservation of acquired rights to benefit. For example, a Luxembourg subject who has worked in Belgium and obtained an old age pension from the Belgian scheme may continue to draw that pension if he goes to live in France.

A man working in one of the Five Countries may have dependants ordinarily residing in another. Subject to certain rules and exceptions, the Convention gives those dependants rights to the medical benefits of the scheme of the country where they are living.

Other points dealt with in the Convention concern the treatment of cases where a person has been insured under a special scheme of insurance in a particular country, *e.g.*, miners in Belgium; or where there would otherwise be a double title to maternity benefit—here the country where the child is born is to pay; or where there are, in a particular country, certain special arrangements about invalidity benefits.

The Convention also contains the usual formal provisions about ratification, denunciation and the accession of other Governments which may in the future make bilateral agreements with one of the Five Powers.

Social and Medical Assistance in Western Union—Annex II

The principles of this Convention are that each of the Five Countries undertakes to treat nationals of the other four on the same basis as its own nationals as regards social and medical assistance. For example, an Englishman, living in Holland, who is without sufficient resources, will receive the same free hospital treatment as a Dutchman in similar circumstances; or a Frenchman, living in Belgium, who is too old to earn his keep, will receive the same assistance as a Belgian in the same situation.

The Five Countries will not reimburse each other for the cost of any such assistance. Repatriation, solely on the ground that assistance is likely to be long-continued or costly, is not to be resorted to if the person concerned has, for instance, close family ties in the foreign country in which he is living or has resided there for more than five years—ten years if he entered that country after the age of fifty-five—or is not in a fit state to be transported. But the Convention does not affect the ordinary laws governing repatriation on other grounds.

A supplementary agreement is to be worked out between the Governments dealing with a number of matters of detail.

The basic principle of equality of treatment has, however, been firmly established and will contribute to the co-operation already existing between the Five Powers in the social field.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate

1.—Adoption of Children—*Illegitimate child—Application by mother and husband aged twenty and twenty-one.*

A, aged twenty-one and B, aged twenty, are man and wife. B has a boy aged four, of which A is not the father. A and B now jointly desire to apply for the adoption of B's child. Is this possible under the proviso to s. 2 (1) of the Adoption of Children Act, 1926, as amended by the Adoption of Children (Regulation) Act, 1939?

S.COUNTY.

Answer.

No one under twenty-five years of age can adopt, save only the mother of the infant. This is clear from proviso (i) to s. 2 (1). The mother is competent to adopt now, alone, but if there is to be a joint adoption she must wait until her husband is twenty-five. Then he will be eligible, in spite of the fact that he is not twenty-one years older than the infant, because his wife is its mother: *see* proviso (ii). Both can then apply.

2.—Bankruptcy—*Act of bankruptcy—Distress for rent.*

We shall be much obliged if you will let us know whether the seizure of goods by a bailiff distraining for rent and their sale or retention by him for twenty-one days is an act of bankruptcy on the part of the tenant under s. 1 (1) (*e*) of the Bankruptcy Act, 1914. It appears to us that such is not the case, but we can find no authority.

AUT.

Answer.

We also have not found a case in which the point has been before the court. The phrase "execution . . . under process or in any civil proceeding in the High Court," which occurs in the paragraph which speaks of twenty-one days retention of goods, is not *prima facie* apt to describe distress for rent: *cf. Potts v. Hickman* [1940] 4 All E.R. 491; 105 J.P. 26, upon the meaning of the word "execution" in a different Act. Section 1 of the Bankruptcy Act, 1914, is quasi-penal and therefore to be strictly construed: *Re Chinery, ex parte Chinery* (1884) 53 L.J.Ch. 662.

3.—Bastardy—*Summons—Service in Northern Ireland.*

Are we correct in assuming that a summons issued in England and sent to a man in Ireland by registered post is not a good service even though its receipt is acknowledged by him?

SUMS.

Answer.

The summons cannot be sent by post outside England: *see* Service of Process (Justices) Act, 1933, s. 1 (3) (*c*).

4.—Children Act, 1948—*Resolution under s. 2—Objection by parent—Juvenile court order resolution not to lapse—Whether order to be drawn up and served.*

On September 29, 1949, a county council resolved that the rights and duties of a parent affecting three children should vest in the county council pursuant to s. 2 (1) (*b*) of the Children Act, 1948. On October 6, 1949, the parent of the three children served a notice in writing on the county council objecting to such resolution. The county council applied to the juvenile court for an order that the resolution should not lapse by reason of the service of such notice by the parent and also that the parent should be summoned to show cause why such an order should not be made. The application was taken before the juvenile court on October 31, 1949, when the parent was also present and made a statement to the bench. The court decided to make the order that the resolution affecting all three children should not lapse, and I shall be glad if you could advise me as to whether a formal order should be drawn up for signature by the magistrates adjudicating and served on the parent, and if such order is required, where a precedent could be found?

SEV.

Answer.

In our opinion it is not necessary to draw up a formal order: *see* Summary Jurisdiction Rules, 1915, r. 53. The order does not require the parent to do or abstain from doing anything, and so there seems no point in drawing it up or serving it upon him.

We suggest, however, that it would be well in these cases, even when the parent has had the effect of the order explained to him in court, and still more if he has not, to give him a simple statement in writing as to the effect of the order, and of his right to apply later, under s. 4 of the Act, for rescission of the resolution.

5.—Criminal Law—*Burglary—Dwelling-house—Meaning of.*

A sea-side bungalow is let all the year round to different people for periods of a fortnight at a time. During the night a man breaks and enters and commits a felony. Can he be convicted of burglary?

The point at issue is whether this bungalow is a dwelling-house within the meaning of s. 24 of the Larceny Act, 1916, seeing that it is not habitually dwelt in by any particular person.

Archbold (1943) p. 615 under the heading of "dwelling-house" states that before burglary can be committed the place must be habitually dwelt in by the occupier, whereas in the above case, this is not so. *Kenny* in his *Outline of Criminal Law* at p. 197 appears to clearly lay down that before burglary can be committed, the place must be a home as opposed to a mere temporary occupation, *viz.*, "He must thus be a member of the household . . . and not a mere temporary licensee whose home the place is not."

In connexion with the above question, what is the position in regard to a suite of rooms at an hotel which is constantly changing hands? If these rooms are broken into at night, etc., would it be burglary against the tenant or the proprietor of the hotel assuming he lives in the building?

SUB.

Answer.

In *An Introduction to Criminal Law* by *Cross and Asterley Jones* (2nd ed.) it is stated: "the real test is not the purpose for which the building was erected but the purpose for which it is in fact used . . . If a building is habitually slept in, it does not matter that upon the night when it was broken into there was no one there." We think the words "habitually slept in" are important and that if the house or bungalow is habitually used for this purpose, then even a short tenancy like a fortnight is sufficient to constitute it the dwelling-house of the tenant for the time being.

As to suites in hotels and similar buildings, it is usual to regard the proprietor of the hotel or building as the person whose dwelling-house it is if he lives there, but if not we think it permissible to describe a suite or even a single room as a separate dwelling-house: *see Archbold* 31st ed., p. 615, and *see* also *Cross and Asterley Jones*, p. 192.

6.—Dogs—*Dangerous—Order to control—Subsequent application for order to destroy.*

In May last proceedings were taken before my justices against M who was the owner of a dangerous dog and an order was made that the dog be kept under control. In June the same dog attacked another person and M was fined for a breach of the order. The dog has recently attacked another individual and is described as a vicious animal. The police are now desirous of taking proceedings on the ground that the dog is dangerous with the object of applying for an order that the dog be destroyed, but in view of the fact that the dog has already been adjudged to be dangerous and an order made that it be kept under control, as I read s. 2 of the Dogs Act, 1871, I am doubtful whether justices have power to make a second order in respect of the same dog and direct that it be destroyed, and it seems to me that the only course is to take further proceedings for a breach of the order made in May.

I shall be very glad of your opinion as to this.

S.G.G.W.

Answer.

The fact that an order to control has been made does not, in our opinion, prevent the making of a fresh complaint on a fresh cause and the making of an order to destroy. It would be strange if a dog became immune from an order of destruction, however often it showed itself dangerous, because it had already been the subject of a less drastic order.

7.—Highway—*Breaking up street—Statutory notice given by agent.*

Before breaking up any street for the laying of new sewers or water mains, s. 279 (1) of the Public Health Act, 1936, as amended by sch. 4 to the Water Act, 1945, requires notice to be given by undertakers to the highway authority. The undertakers entered into an agreement (in the standard form) with a contractor to lay the sewers and water mains which provides—

"The contractor shall comply with and give all notices required by any Act of Parliament or by any regulation or byelaw of any local authority or of any public service company or authority who have any jurisdiction with regard to the works or with whose systems the same are or will be connected, and he shall pay and indemnify the employer against any fees or charges legally demandable under such Act of Parliament, regulation or byelaw in respect of the works; provided that the said fees and charges if not expressly included in the contract sum or stated by way of provisional sum shall be added to the contract sum."

Pursuant to s. 279 (1) of the 1936 Act and the terms of his agree-

ment with the undertakers the contractor gave notice of the road opening to the highway authority. The highway authority now claim this notice is invalid, as, in their view, the undertakers and not the contractor should have given the notice. In view of the contractor's agreement with the undertakers can the highway authority's contention be upheld? A.LEX.

Answer.

Certainly not, in our opinion. It is the normal practice, well established before the Act of 1936 was passed, for such notices, like building notices, to be given by an agent. The standard building contract, like the standard engineering contract, provides for the contractor to give the notices: this is convenient for all parties, not least for the local authority. It is one of the cases where *Qui facit per alium facit per se* most clearly applies.

8.—Housing Act, 1936—*Section 9—Informal notices—Extent of unfitness.*

It is my council's practice, as I think is general, to serve preliminary notices upon owners before adopting statutory powers under the above section. In a recent case an owner's agents, upon whom a preliminary notice was served, complied with the more essential requirements of the notice but left some defective plastering included in the notice. A notice under the above section was then served upon the agents, who challenged the competence of my authority to require them to do the outstanding plastering work, and it is thought that they will plead that a house cannot be described as "in any respect unfit" by reason only of defective plastering or, that according to the general standard of fitness of working class houses in my council's district, their house is no exception. In fact the general standard of fitness of working-class houses in my council's district is very high but it is, of course, impossible to say that there are none with defects of plastering.

The case in point is likely to be a test case, as the owner's agents control a number of houses in the district and, if they succeed in maintaining their point, they will be likely to be selective in their response to preliminary notices, and only do the work they consider essential, and there will be a general lowering of standards throughout the district.

Your opinion is sought upon the following points:—

1. Are you aware of any decided case upon the interpretation of the phrase "in any respect unfit" as contained in the above section?

2. If the answer is "no," do your views coincide with those printed at p. 1590 of *Lumley*, where the test indicated is that of the general standards of the district?

3. Is the extent of the defect more important than its nature? Would you say, for example, that if plaster was so defective that the occupier could not properly brush or clean the walls this would be a defect which in itself would warrant the description of the house as "in any respect unfit?"

4. Do you consider the practice of serving informal notices dangerous in the light of the foregoing? If all the work required by the preliminary notice had been made the subject of a statutory notice at the outset the owner could not be said to have complied with the notice without completing the work. ASTI.

Answer.

1. Not directly. *Hall* v. *Manchester Corporation* (1915) 79 J.P. 385 is not far off the point, but was decided upon a local Act, and may not greatly help now, since s. 188 (4) of the Act of 1936. *Summers* v. *Salford Corporation* [1943] 1 All E.R. 68; 107 J.P. 35, was decided on s. 2, not s. 9, but may be worth considering.

2. We see nothing inconsistent. *Lumley's* note is based on s. 188 (4).

3. It is a question of degree. Contrast s. 25, where there must be disrepair or sanitary defect. By s. 188 (4) these features must be considered, but the council are not forbidden to consider other features. Bad condition of plaster is, anyhow, disrepair, and can in our opinion tend to make a house unfit, both for the reason given in the query and because the plaster falls on the floor, and then the floor cannot be kept clean.

4. Yes. The practice is convenient, and in these days, when owners often cannot get repairs done at reasonable cost (if at all) may be the best course. But where unfitness is established to their satisfaction, the section says that the council shall serve a notice; if they do not do what the Act requires, they run some risk of failing to secure their purpose.

9.—Husband and Wife—*Maintenance Order—Divorce followed by re-marriage of wife—Application for revocation of order as to children and for new orders under Guardianship of Infants Acts.*

A man has obtained a divorce against his wife and in consequence has issued a summons applying to the magistrates to vary an order previously made against him for the maintenance of his ex-wife and children in so far as payments to the former are concerned. The ex-wife has re-married, and since the receipt of the summons taken out by her ex-husband has now issued one made returnable at the same time as the one served upon her applying for the order to be revoked. In addition she has issued a summons under the Guardianship of Infants Acts seeking custody and maintenance of her children under those Acts. It will be appreciated that if under the circumstances an order can be made under such Acts the magistrates can grant up to £1 per week maintenance for each child until twenty-one years of age.

It has occurred to me, having regard to the original order as applying to the children, and which was made under the Married Women Acts, whether it is competent for the court to revoke the same and grant an order for an increased amount of maintenance under other Acts. Your opinion, with authorities, will be appreciated. SUE.

Answer.

An application to revoke an order for the maintenance of children, made under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925, in order that a fresh order can be applied for under the Guardianship of Infants Acts, 1886 and 1925, can properly be entertained by justices: *Flood* v. *Flood* [1948] 2 All E.R. 712; 112 J.P. 416.

There is no objection to justices varying or discharging an order under the Separation and Maintenance Acts after a decree of divorce: *Bragg* v. *Bragg* [1925] P. 20; *Plunkett* v. *Plunkett* [1937] 3 All E.R. 736; 101 J.P. 508, but if there were no order in existence we should advise that justices should not act but should leave the matter to be the subject of an application to the High Court, because of the case of *R.* v. *Middlesex JJ. Ex parte Bond* (1933) 97 J.P. 130, and other decisions.

In the present case, however, the application is really a continuance of the summary proceedings, and is almost like a variation of existing orders. Therefore, if the Divorce Court made no order as to the children, and no one has petitioned that court in respect of them, we think the justices may act without impropriety.

10.—Local Government Act, 1948—*War memorial—Adding fresh names to existing memorial.*

My council have a memorial of the first world war vested in them. The memorial bears an inscription to which is added the names of

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FORM OF BEQUEST

I hereby bequeath the sum of £ to the Imperial Cancer Research Fund (Treasurer, Sir Holburt Waring, Bt.), at Royal College of Surgeons of England, Lincoln's Inn Fields, London, W.C.2, for the purpose of Scientific Research, and I direct that the Treasurer's receipt shall be a good discharge for such legacy.

those who lost their lives in the war. It is desired to alter the inscription of the memorial to make it serve as a memorial in connexion with world wars I and II, and to add the names of those who fell in the second world war. It is noted that the council have power under s. 133 (2) of the Local Government Act, 1948, to alter the inscription so as to make the memorial serve as a memorial in connexion with any war subsequent to that for which it was erected. The point arises, however, whether s. 133 (2) confers on the council the power to add the names of those who lost their lives in the second world war. I should be much obliged for your views, as to whether you consider the proposed addition would constitute an alteration of the memorial and a necessary correction in the inscription and, as such, be an expense which the council could incur. ADO.

Answer.

The power of correction is not to make "a necessary correction," as in this query, but to correct any error or omission in the inscription. This we take to mean, for example, adding names accidentally omitted after the first war, or names of men whose deaths in that war were belatedly established. But the other power in subs. (2), *viz.*, "alteration of any memorial . . . so as to make it serve" is, in our opinion, apt to cover inscribing a set of names relating to a later war upon a memorial upon which names from an earlier war are already inscribed.

11.—Police (Property) Act, 1897—*Refusal of justices to make order—Whether any appeal.*

Is there any right of appeal against dismissal by justices of an application for an order under the Police (Property) Act, 1897, for delivery of property in the possession of the police to the person who claims to be the owner of it? In the application referred to the police did not oppose, but pointed out that the justices must be satisfied that the claimant was the person appearing to be the owner of the property claimed. Evidence was called on behalf of the claimant to show that he is the owner of the property claimed; no evidence was called by the police, who did not cross-examine the applicant's witnesses, but the application was nevertheless dismissed by the justices without giving any reason. It would appear there is no right of appeal to quarter sessions against dismissal and no right of appeal by Case Stated, since no point of law arose. The only method of questioning the decision of the justices would appear to be by way of writ of *mandamus*. Do you agree? STAL.

Answer.

It is impossible to give a satisfactory answer without more knowledge of the facts. If the justices were not convinced by the evidence, even though there was none to the contrary they were entitled to decline to make an order. It seems to us that the only ground for applying for an order of *mandamus* would be that the justices could be shown to have refused to exercise any judicial discretion and had acted perversely. We agree there is no appeal to quarter sessions, and if, as stated, no point of law was involved there is no ground for a special case to be stated.

Mandamus will not be granted to hear and determine when there has been an actual adjudication, even though their decision be wrong either in fact or in law. No order will be issued dictating to them in what manner they are to decide: 9 *Halsbury* 764 and cases there cited.

12. Rating and Valuation—*Enforcement—No effects—Rated occupier ill.*

For some time past each half year a certain woman in this city has been summoned for non-payment of rates and the distress warrant has been returned "No effects." When summoned to show cause why she should not be committed to prison for non-payment, a medical certificate is produced to show that the woman is not in a fit state to attend court (due to old age and heart trouble) with the result that no commitment order can be made. The rating officer can produce evidence to show that in the house there live with the woman three grown up sons, and that the total weekly income coming into the house is in the neighbourhood of £20. I have not been able to suggest to the justices any way by which the rates can be enforced, and I shall be pleased if you will let me know if there is, in your opinion, any way to enforce payment. ABLE.

Answer.

This looks like a variant of the familiar case where a rated occupier disposes of his furniture to a member of his family with whom he lives in the rated premises. We fear there is nothing the justices can do, to defeat what is, if not deliberately fraudulent evasion, at least an evasion on the border line of fraud. The important matter for rating is not the family income, but the ownership of the family furniture: since a household comprising four adults must have furniture, which must belong to somebody, the inference, since it does not belong to the mother, is that its ownership is divided among the sons. The rating authority, if they have evidence to show that the sons are *de facto* maintaining their household, including the mother, might serve a proposal for putting the sons into the list as joint occupiers, or for rating one of the sons if one appears to be the principal wage earner, or they can discover that one owns the bulk of the furniture. This would, at any rate, be a step towards getting paid next year, and would throw on the household the onus of objecting to the proposal.

13.—Theatre—*Excise licence—Premises used for dances, etc.—Whether intoxicating liquor may lawfully be sold when premises so used.*

My council own public halls, bought with loan sanctions under the Local Government Act, 1933, s. 125. They hold music, singing and dancing licences, given under a local Act, and obtain "occasional" licences for the performance of stage plays under the Theatres Act, 1843. It is possible that the council will eventually obtain an unrestricted stage play licence, after certain requirements of the licensing authority have been met. In this event the council would consider applying for an excise licence to retail intoxicating liquors.

I should value your opinion as to whether such excise licence would enable the council to sell intoxicating liquors at times when the halls were used for other purposes than the performance of stage plays, *e.g.*, for dances, etc. NALT.

Answer.

An excise licence (taken out otherwise than under the authority of a justices' licence) for the sale of intoxicating liquor by proprietors of a theatre is issued subject to a condition that intoxicating liquor shall not be sold under the licence except when the premises are open and being used, and to persons *bona fide* using the premises, for the purposes of a theatre: *see* Finance (1909-10) Act, 1910, sch. I. "Provisions applicable to retailer's on-licences," para. 4—"Conditions attached to theatre licence." Contravention of this provision renders a person liable to an excise penalty of £50 (Finance (1909-10) Act, s. 50 (4)).

We dealt with a similar point at 87 J.P.N. 35 and 93 J.P.N. 209.

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CITY AND COUNTY OF THE CITY OF EXETER

Appointment of Assistant Solicitor

APPLICATIONS are invited for the above appointment at a salary in accordance with Grade VI (£595—£660) or Grade VII (£635—£710) (according to experience) in the Administrative, Professional and Technical Division of the National Joint Council's Scheme and Conditions of Service.

Applicants must be solicitors experienced in conveyancing and advocacy. Municipal experience will be an advantage.

The appointment will be subject to one calendar month's notice on either side, and to the provisions of the Local Government Superannuation Act. The successful applicant will be required to pass a medical examination.

Applicants are required to disclose in writing to me, the undersigned, when making their applications, whether to their knowledge they are related to any member or officer of the City Council. Deliberate omission to make such a disclosure will disqualify the candidate.

Applications stating age, qualifications and full details of previous experience with salaries and exact designations together with copies of three recent testimonials should be sent to the undersigned at 10, Southernhay West, Exeter, not later than Tuesday, January 24, 1950.

Canvassing of members of the Exeter City Council directly or indirectly in connexion with the appointment will disqualify.

C. J. NEWMAN,
Town Clerk.

Exeter.
January 10, 1950.

STAFFORDSHIRE COUNTY COUNCIL

Children's Officer

APPLICATIONS are invited for the appointment of Children's Officer (male or female) for the Administrative County of Stafford at a salary in accordance with Grade A.P.T. IX of the National Joint Council's Scales of salaries for Local Authorities Administrative, Professional, Technical and Clerical Services, *viz.*, £750 per annum, rising by annual increments by £50 to a maximum of £900 per annum.

Applicants must have had wide experience in dealing with children deprived of normal home life, including children in Homes, Institutions and Boarded-out. It will be an advantage if applicants are University Graduates with a Social Science Diploma. The appointment will be terminable by three months' notice in writing on either side and will be subject to the provisions of the Local Government Superannuation Acts and the successful candidate will be required to pass a medical examination.

Applications, endorsed "Children's Officer," stating age, qualifications and experience and accompanied by copies of three recent testimonials, should reach me, the undersigned, not later than January 28, 1950.

Canvassing in any form will be a disqualification and candidates must state in their application whether or not they are related to any member of the County Council.

T. H. EVANS,
Clerk of the County Council.

County Buildings,
Stafford.
January, 1950.

COUNTY BOROUGH OF DERBY

APPLICATIONS are invited for the appointment of a full-time male Probation Officer.

Applicants must not be less than 23 nor more than 40 years of age except in the case of serving full-time Probation Officers.

The appointment will be subject to the Probation Rules, 1949, and Probation Officers' (Superannuation) Order, 1948, and the selected candidate will be required to pass a medical examination and to reside in the above district.

Applications in own handwriting, stating age, qualifications and experience, together with copies of three recent testimonials, must reach the undersigned not later than three weeks after the appearance of this advertisement.

ARTHUR EXTON,
Clerk to the Justices.

Justices' Clerk's Office,
Derwent Street,
Derby.

METROPOLITAN BOROUGH OF WANDSWORTH

Second Assistant Solicitor

APPLICATIONS are invited for the established post of Second Assistant Solicitor in the Town Clerk's Department. The salary paid will be in accordance with Grade A.P.T. VIII of the National Scheme of Conditions of Service, *viz.*, £715 to £790 inclusive.

Applicants must have had considerable experience in the Town Clerk's Department of a local authority and possess a sound knowledge of municipal law and practice, including advocacy and the acquisition of land for all purposes.

The appointment will be subject to the provisions of the Wandsworth Borough Council (Superannuation) Acts, 1909 to 1940, to the passing of a medical examination by a medical officer nominated by the Council and to the National Scheme of Conditions of Service. Canvassing will disqualify. Applicants must state, in the order given, full name and address, age, whether married or single, war service, date of admission, present appointment and salary, previous appointments, particulars of experience, date on which appointment could be taken up, and whether to their knowledge they are related to any member or to any senior officer of the Council. Applications, giving the names of two persons to whom reference may be made, should reach the Town Clerk, Municipal Buildings, Wandsworth, S.W.18, not later than February 1, 1950, the envelope being endorsed "Second Assistant Solicitor."

R. H. JERMAN,
Town Clerk.

Municipal Buildings,
Wandsworth, S.W.18.
January, 1950.

INQUIRIES

DETECTIVE AGENCY (HOYLAND'S) (T. E. Hoyland, **ex-Detective Sergeant**); Member of British Detectives Association and Federation of British Detectives. **Divorce**, Process serving, Observations, **Confidential investigations** and Status inquiries anywhere. Male and Female staff. **Over** 150 **Agents in various parts of the country.**—1 Mayo Road, Bradford. Tel.: Bradford **26823** day or night. Telegrams: "Evidence" Bradford.

BOROUGH OF TAUNTON

Conveyancing and Legal Assistant

APPLICATIONS are invited for the appointment of a Conveyancing and Legal Assistant in the Town Clerk's Department at a salary within A.P.T. Grades III and IV (£450-£525) according to experience.

The appointment, which will be determinable by one month's notice on either side, will be subject to the provisions of the Local Government Superannuation Act, 1937, and the successful candidate will be required to pass a medical examination. Consideration will be given to housing accommodation, if required. Applications, stating age, qualifications, experience and present appointment, together with names and addresses of two referees, should be sent to me not later than January 25, 1950.

Canvassing will disqualify.

L. ATWELL,
Town Clerk.

Municipal Buildings,
Taunton.

FRIERN BARNET URBAN DISTRICT COUNCIL

Appointment of Clerk and Solicitor

APPLICATIONS for this appointment are invited from legally qualified persons having experience of Local Government law and administration at a commencing salary of £1,300, rising by £50 per annum to £1,500.

Returning Officer's Fees for Local Elections to be retained, all other Fees to be paid into Council Funds.

Conditions of Service as set out in Second Schedule to Memorandum of Recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks dated September 8, 1949.

Applications, giving full particulars including age, education, previous experience and the names of two referees should be addressed to the undersigned at the Town Hall, Friern Barnet, N.11, not later than Saturday, February 18, 1950.

Canvassing will disqualify.

G. T. FLETCHER,
Clerk of the Council.

DENTON URBAN DISTRICT COUNCIL

APPLICATIONS are invited for the temporary appointment of Legal Assistant in the office of the Clerk of the Council, at a salary in accordance with Grade II of the A.P.T. Division Scales (£420—£465) according to experience. The appointment will be for a six months' period with a possibility of permanency. Applicants should have a sound knowledge of conveyancing, tenancy agreements, and related matters, and be experienced in the work of a Solicitor's Office or the Legal Department of a local authority. Applications, endorsed "Legal Assistant" and stating age and experience and names and addresses of two persons to whom reference may be made, must reach the undersigned not later than January 25, 1950.

JAMES SMITH,
Clerk of the Council.

Town Hall,
Denton.
January 13, 1950.

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